



Reserves

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Rules of Governmental Agencies

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Springfield, IL 62756

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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1989

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 20, 1988	Dec. 27, 1988	1	Jan. 6, 1989	June 27, 1989	July 3, 1989 (Mon.)	28	July 14, 1989
Dec. 27, 1988	Jan. 3, 1989	2	Jan. 13, 1989	July 3, 1989 (Mon.)	July 11, 1989	29	July 21, 1989
Jan. 3, 1989	Jan. 10, 1989	3	Jan. 20, 1989	July 11, 1989	July 18, 1989	30	July 28, 1989
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Jan. 17, 1989	Jan. 24, 1989	5	Feb. 3, 1989	July 25, 1989	Aug. 1, 1989	32	Aug. 11, 1989
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Feb. 7, 1989	Feb. 14, 1989	8	Feb. 24, 1989	Aug. 15, 1989	Aug. 22, 1989	35	Sept. 1, 1989
Feb. 14, 1989	Feb. 21, 1989	9	Mar. 3, 1989	Aug. 22, 1989	Aug. 29, 1989	36	Sept. 8, 1989
Feb. 21, 1989	Feb. 28, 1989	10	Mar. 10, 1989	Aug. 29, 1989	Sept. 5, 1989	37	Sept. 15, 1989
Feb. 28, 1989	Mar. 7, 1989	11	Mar. 17, 1989	Sept. 5, 1989	Sept. 12, 1989	38	Sept. 22, 1989
Mar. 7, 1989	Mar. 14, 1989	12	Mar. 24, 1989	Sept. 12, 1989	Sept. 19, 1989	39	Sept. 29, 1989
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Apr. 25, 1989	May 2, 1989	19	May 12, 1989	Oct. 31, 1989	Nov. 7, 1989	46	Nov. 17, 1989
May 2, 1989	May 9, 1989	20	May 19, 1989	Nov. 7, 1989	Nov. 14, 1989	47	Nov. 27, 1989 (Mon.)
May 9, 1989	May 16, 1989	21	May 26, 1989	Nov. 14, 1989	Nov. 21, 1989	48	Dec. 1, 1989
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May 23, 1989	May 30, 1989	23	June 9, 1989	Nov. 28, 1989	Dec. 5, 1989	50	Dec. 15, 1989
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June 20, 1989	June 27, 1989	27	July 7, 1989	Dec. 26, 1989	Jan. 2, 1990	2	Jan. 12, 1990

Please note: When the *Register* deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DISCUSSION

The results of the present study are in line with those of other studies which have shown that the use of a computerized system for the management of a library can lead to a number of advantages. These include the ability to store and retrieve information more efficiently, the ability to share information between different departments, and the ability to provide a more comprehensive service to the user. The use of a computerized system also allows for the automation of many of the tasks involved in the management of a library, such as the processing of new acquisitions, the updating of the catalog, and the generation of reports. This can lead to a significant reduction in the time and effort required to manage a library, and can also lead to a more consistent and accurate service to the user.

1. The use of a computerized system for the management of a library can lead to a number of advantages. These include the ability to store and retrieve information more efficiently, the ability to share information between different departments, and the ability to provide a more comprehensive service to the user.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administration of the Illinois Public Community College Act
- 2) Code Citation: 23 Ill. Adm. Code 1501
- 3) Section Numbers: Proposed Action:
 1501.302 amendment
 1501.501 amendment
- 4) Statutory Authority: Ill. Rev. Stat., 1987, Ch. 122, par. 102-4 and 102-16
- 5) A Complete Description of the Subjects and Issues Involved:

1501.302

The purpose of the proposed revision to the current ICCB rule which specifies the parameters under which community colleges are authorized to create reasonable and moderate extensions of previously approved curricula is to enable the colleges to better utilize vocational skills certificates to meet the short-term employment training needs of individuals in their communities.

There are many instances when certification for the completion of a short sequence of vocational skills courses is needed, particularly to respond to the needs of local business and industry for immediate employee training or upgrading. Currently, when such a need arises, the college must follow the new unit approval process to seek ICCB and IBHE approval for such a new unit of instruction, which involves at least five months, even if the program is only a few semester credit hours in duration. However, the time and effort involved could be greatly streamlined if the college were able to create such short-term certificates as reasonable and moderate extensions of existing vocational skills certificate programs.

1501.501

The purpose of the proposed revision is to clarify the definition and policies regarding residency. The proposed rules represent more than two years of deliberation and modification with systemwide input.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 9) Are there any other proposed amendments pending on this Part? Yes
- | | | |
|----------|-----------|------------------|
| 1501.111 | amendment | November 3, 1989 |
| 1501.302 | amendment | November 3, 1989 |
| 1501.303 | amendment | November 3, 1989 |
| 1501.501 | amendment | November 3, 1989 |
- 10) Statement of Statewide Policy Objectives: Not Applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

David Steelman, Associate Director
 Governmental Relations
 Illinois Community College Board
 509 South Sixth Street, Room 400
 Springfield, Illinois 62701-1874
 Telephone: (217) 785-0028

Written comments on the proposed rulemaking will be accepted for 45 days following publication of this notice.

- 12) Initial Regulatory Flexibility Analysis: The Illinois Community College Board has determined that this rulemaking will not affect small business.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501

ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section
1501.101 Definition of Terms
1501.102 Advisory Groups
1501.103 Rule Adoption (Recodified)
1501.104 Manuals
1501.105 Advisory Opinions
1501.106 Executive Director
1501.107 Information Request (Recodified)
1501.108 Organization of ICCB (Recodified)
1501.109 Appearance at ICCB Meetings
1501.110 Appeal Procedure
1501.111 Reporting Requirements
1501.112 Certification of Organization
1501.113 Administration of Mandatory and Voluntary Annexations and New District Formations

SUBPART B: RECOGNITION

Section
1501.201 Definition of Terms
1501.202 Recognition Provisions
1501.203 Evaluation
1501.204 Review and Appeal
1501.205 Recognition Standards

SUBPART C: PROGRAMS

Section
1501.301 Definition of Terms
1501.302 Units of Instruction, Research, and Public Service
1501.303 Program Requirements
1501.304 Statewide and Regional Planning
1501.305 College, Branch, and Extension Centers
1501.306 State or Federal Institutions (Repealed)
1501.307 Cooperative Agreements and Contracts
1501.308 Reporting Requirements
1501.309 Course Classification and Applicability

ILLINOIS COMMUNITY COLLEGE BOARD

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SUBPART D: STUDENTS

Section
1501.401 Definition of Terms
1501.402 Admission of Students
1501.403 Student Services
1501.404 Academic Records
1501.405 Student Evaluation
1501.406 Reporting Requirements

SUBPART E: FINANCE

Section
1501.501 Definition of Terms
1501.502 Financial Planning
1501.503 Audits
1501.504 Budgets
1501.505 Non-Resident Student Tuition Calculations
1501.506 Published Financial Statements
1501.507 Credit Hour Grants
1501.508 Special Populations Grants
1501.509 Economic Development Grants
1501.510 Reporting Requirements
1501.511 Chart of Accounts
1501.514 Business Assistance Grants (Repealed)
1501.515 Advanced Technology Equipment Grants
1501.516 Repair and Renovation Grants
1501.517 Retirees Health Insurance Grants
<u>EMERGENCY</u>

SUBPART F: CAPITAL PROJECTS

Section
1501.601 Definition of Terms
1501.602 Approval of Capital Projects
1501.603 State-Funded Capital Projects
1501.604 Locally Funded Capital Projects
1501.605 Project Changes
1501.606 Progress Reports (Repealed)
1501.607 Reporting Requirements
1501.608 Approval of Projects in Section 3-20.3.01 of the Act
1501.609 Completion of Projects Under Section 3-20.3.01 of the Act

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SUBPART G: STATE COMMUNITY COLLEGE

Section

1501.701 Definition of Terms.

1501.702 Applicability

1501.703 Recognition

1501.704 Programs

1501.705 Finance

1501.706 Personnel

1501.707 Facilities

SUBPART H: PERSONNEL

Section

1501.801 Definition of Terms

1501.802 Sabbatical Leaves

AUTHORITY: Implementing and authorized by Article II of the Public Community College Act (Ill. Rev. Stat., 1987 and 1988 Suppl., ch. 122, pars. 102-1 et seq.)

SOURCE: Adopted at 3 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107, and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; amended at 13 Ill. Reg. _____, effective _____.

ILLINOIS COMMUNITY COLLEGE BOARD

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SUBPART C: PROGRAMS

Section 1501.302 Units of Instruction, Research, and Public Service

a) Approval of New Units of Instruction. Each proposed new unit of instruction shall be submitted to the ICCB for approval. The criteria for approval of new units of instruction are:

1) Mission and Objectives.

A) The objectives of the unit of instruction are consistent with the mission of the college as set forth in Ill. Rev. Stat., 1983, ch. 122, par. 101-2(e).

B) The objectives of the unit of instruction are consistent with what the title of the unit of instruction implies.

2) Academic Control.

A) The design, conduct, and evaluation of the unit of instruction are under the direct and continuous control of the college's established processes for academic planning and quality maintenance, and clear provision is made for ensuring a high level of academic performance of faculty and students.

B) The admission, course placement, and graduation requirements for the unit of instruction are consistent with the stated objectives of the unit of instruction and with Section 103-17 of the Act where applicable.

3) Curriculum. The content of the curriculum ensures that the objectives of the unit of instruction will be achieved.

A) The range of total number of credit hours required for completion of an associate degree curriculum shall be within the following parameters:

i) For the Associate in Arts degree and the Associate in Science degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent;

ii) For the Associate in Applied Science degree, a total requirement of not less than 60 credit hours nor more than 72 semester credit hours or the quarter credit hour equivalent, except in such occupational fields in which accreditation or licensure by a state or national organization requires additional coursework; and

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

iii) For the Associate in General Studies degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent.

B) Each associate degree curriculum shall include a specific general education component consisting of coursework in communication, arts and humanities, social and behavioral sciences, and mathematics and science within the following parameters:

i) For the Associate in Arts degree and the Associate in Science degree, the general education component required will represent at least 60 percent of the total number of credit hours for completion;

ii) For the Associate in Applied Science degree, the general education component required will represent no less than 25 percent nor more than 50 percent of the total number of credit hours required for completion; and

iii) For the Associate in General Studies degree, the general education component required will represent no less than 30 percent of the total number of credit hours required for completion.

4) Faculty and Staff.

A) The academic preparation and experience of faculty and staff ensure that students receive education consistent with the objectives of the unit of instruction.

B) The involvement of faculty in the unit of instruction is sufficient to cover the various fields of knowledge encompassed by the curriculum, to sustain scholarship appropriate to the unit of instruction, and to ensure curriculum continuity.

C) Support personnel, including counselors, administrators, clinical supervisors, and technical staff, have the educational background and experience necessary to carry out their assigned responsibilities.

5) Support Services.

A) Facilities, equipment, and instructional resources (e.g., laboratory supplies and equipment, instructional materials, computation equipment) necessary to provide quality instruction will be available and maintained.

ILLINOIS COMMUNITY COLLEGE BOARD

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B) Library holdings and acquisitions necessary to support quality instruction and scholarship are available, accessible, and maintained.

C) Provision is made for the guidance and counseling of students, the evaluation of student performance, the continuous monitoring of progress of students toward their degree or certificate objectives, the placement of completers of the unit of instruction, and appropriate academic recordkeeping.

6) Financing.

A) The financial commitments to support the unit of instruction are sufficient to ensure that stated objectives can be attained and that the faculty, staff, and support services necessary to offer the unit of instruction can be acquired and maintained.

B) Projections of revenues necessary to support the unit of instruction are based upon supportable estimates of general revenue, student tuition and fees, private gifts, and/or governmental grants and contracts.

7) Public Information.

The information that the college provides to students and the public accurately describes: the unit of instruction offered; the objectives of the unit of instruction; length of the unit of instruction; residency requirements, if any; schedule of tuition, fees, and all other charges and expenses necessary for completion of the unit of instruction; cancellation and refund policies; and such other material facts concerning the college and the unit of instruction as are likely to affect the decision of the student to enroll.

8) Accreditation and Credentialing.

A) Appropriate steps have been taken to ensure that accreditation of the proposed new unit of instruction will be granted in a reasonable period of time.

B) The proposed new unit will provide the skills required to obtain individual credentialing (certification, licensure, registration) needed for entry into an occupation as specified in the objectives of the proposed new unit of instruction.

ILLINOIS COMMUNITY COLLEGE BOARD

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9) Program Needs and Priorities.

A) The unit of instruction must be educationally and economically justified based on the educational priorities and needs of the citizens of Illinois and the college's district.

B) The unit of instruction meets a need that is not currently met by units of instruction which are offered by other institutions in the district.

b) Approval of New Administrative Units of Research or Public Service. An application for approval of each proposed new administrative unit of research or public service shall be submitted to the ICCB on forms provided by the ICCB. The criteria for approval of new administrative units of public service or research are:

1) The proposed new administrative unit shall be authorized by the Board of Trustees.

2) The objectives of the proposed new administrative unit are consistent with the mission of the college [see Ill. Rev. Stat., 1983, Ch. 122, par. 101-2(e)].

3) The proposed new administrative unit shall meet a district's need to deliver a public service or research program that cannot be met through the district's current structure as indicated by an organizational chart.

4) The proposed new administrative unit shall administer at least one public service or research program.

5) The needs assessment demonstrates that the demand for the public service or research program to be administered by the proposed new unit will be continuous for at least three years.

6) The district shall provide evidence that the resources for the facilities, equipment and materials, and staff necessary to provide a quality program or service shall be made available to the proposed new administrative unit.

c) Withdrawal. An approved unit of instruction, public service, or research may be withdrawn by the college when it decides to suspend operation of the unit. The withdrawal request shall be reported on forms supplied by the ICCB.

ILLINOIS COMMUNITY COLLEGE BOARD

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d) Reasonable and Moderate Extensions.

1) An approved unit of instruction, public service, or research may be modified by the college within the parameters listed in Section 1501.302d2 through 4. The college shall notify the ICCB of such extensions on forms provided by the ICCB.

2) Reasonable and moderate extensions of previously approved units of instruction include:

A) The addition, modification, or withdrawal of courses within an approved unit of instruction which does not alter the objectives of the unit of instruction;

B) A change in minimum credit hours for completion of an approved unit of instruction that does not affect the instructional level of the unit of instruction.

C) A change in title of an approved unit of instruction that does not indicate a different objective of the unit than that previously approved.

D) The creation of an option (major, concentration, or specialization) within an approved unit of instruction in which:

i) the option created is within the same general academic discipline or occupational field as the previously approved unit of instruction,

ii) the option created within a previously approved associate degree curriculum requires the same first-year sequence of courses as the previously approved unit of instruction, and

iii) the option created does not substitute more than twelve (12) semester credit hours of other courses for courses previously approved as part of an associate degree curriculum or substitute more than six (6) semester credit hours of other courses for courses previously approved as part of a certificate curriculum of one year or more.

E) The creation of certificate curricula from previously approved associate degree curricula, providing no new courses are added for certificates of up to thirty (30) semester credit hours or no more than six (6) semester credit hours are substituted in certificates of thirty (30) semester credit hours or more.

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Attendance at Midterm. A student is "in attendance at midterm" in a course if the student is currently enrolled in and actively pursuing completion of the course.

Auditor. An auditor is a person who enrolls in a class without intent to obtain academic credit and whose status as an auditor is declared by the student, approved by college officials, and identified on college records prior to the end-of-registration date of the college for that particular term.

Business Assistance Centers and Economic Development Offices. Business assistance centers and economic development offices are entities at community colleges that conduct, coordinate, and assist with economic development activities.

Economic Development Activities. Economic development activities create or retain jobs and increase employment opportunities.

Economic Development Grants. Economic development grants provide funds for conducting economic development activities.

Repair and Renovation Grants. Repair and renovation grants are state grants appropriated to the ICOB and distributed proportionally to each community college district based on the latest fall on-campus non-residential gross square feet of facilities as certified by the ICOB. Such grants are to be utilized for miscellaneous capital improvements including construction, reconstruction, remodeling, improvement, repair, and installation of capital facilities; cost of planning, supplies, equipment, materials, and services; and all other expenses required to complete the work.

[illegible]

Advanced Technology Equipment Grant. The advanced technology equipment grant provides state funds to Illinois public community colleges for the procurement of equipment necessary to upgrade curricula impacted by technological changes. (See Section 2-16.01 of the Act)

guardian of the student shall reside in the district,
it financially able, at least one parent, step-parent, or court appointed

[illegible]

an annual program report, which provides a narrative description of programs offered, goals of the district, and student and staff data.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

Am/illinois/drivers/licenses/
 Am/illinois/automobile/licenses/registration/
 Am/illinois/voters/registration/card/
 A/Document/snowing/the/student/s/past/or/existing/status/as a
 driver/student/e.g./a/high/school/transcript/
 other/non-self-serving/documentation.

Residency of/yyyyyds//not/proofs/of/payment/of/ICCB/grants//a//residence/
 of/illinois//is/a/person/who/meets/the/following/criteria

If/announced,at/least/one/parent/supervisory/or/court-appointed
 guardian/of/the/student/shall/reside/in/illinois.

If/employed,at/least/one/parent/supervisory/or/court-appointed
 guardian/shall/reside/in/illinois//in/some/capacity/other/than/as/a
 student/at/a/postsecondary/educational/institution/not/a/college,
 unless/evidence/is/presented/that/the/student/has/permanently/resided
 for/purposes/other/than/attending/school/evidence/of/legal/residency
 shall/be/based/on/ownership/and/or/occupancy/of/a/home/hh/the/state/of
 illinois/and/one/of/the/following:

Am/illinois/drivers/licenses/
 Am/illinois/automobile/licenses/registration/
 Am/illinois/voters/registration/card/
 Employment/in/the/state/of/illinois/
 Payment/of/illinois/income/tax/
 A/Document/showing/the/student/s/past/or/existing/status/as/an
 illinois/student/e.g./a/high/school/record/
 other/non-self-serving/documentation.

Residency - Applicability-Verification of Status. As part of verification
 that its credit hours are eligible to receive ICCB grants, each community
 college district shall adopt a process for verifying the residency status of
 its students and shall file a description of this process with the ICCB by
 July 1, 1990. Each district shall file descriptions of any revisions to its
 process with the ICCB prior to their implementation.

Residency - General Provisions. The following provisions apply both to state
 and district residency definitions:

To be classified as a resident of the State of Illinois or of the
 community college district, each student shall have occupied a
 dwelling within the state or district for at least 30 days
 immediately prior to the date established by the district for classes
 to begin.

ILLINOIS COMMUNITY COLLEGE BOARD

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The district shall maintain documentation verifying state or district
 residency of students.

Students occupying a dwelling in the state or district who fail to
 meet the 30-day residency requirement may not become residents simply
 by attending classes at a community college for 30 days or more.

Students who move from outside the state or district and who obtain
 residence in the state or district for reasons other than attending
 the community college shall be exempt from the 30-day requirement if
 they demonstrate a verifiable interest in establishing permanent
 residency.

Residency - District Provisions. Students shall not be classified as
 residents of the district where attending even though they may have met the
 general 30-day residency provision if they are:

- federal job corps workers stationed in the district;
- members of the armed services stationed in the district;
- inmates of state or federal correctional/rehabilitation institutions
 located in the district;
- full-time students attending a postsecondary educational institution
 in the district who have not demonstrated a verifiable interest in
 establishing permanent residency; and
- students attending under the provisions of a chargeback or
 contractual agreement with another community college.

Residency - Special State Provisions. Students shall be classified as
 residents of the state without meeting the general 30-day residency provision
 if they are:

- federal job corps workers stationed in Illinois;
- members of the armed services stationed in Illinois;
- inmates of state correctional/rehabilitation institutions located in
 Illinois; or
- employed full time in Illinois.

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Special Populations Student. A "special populations student" is a student with a social, physical, developmental, or academic disability that makes it difficult for such a student to adapt to a college environment designed for the non-disadvantaged. This may include students from minority racial/ethnic groups. Colleges shall designate which of their students are special populations as determined by teacher and counselor evaluations and various standardized tests selected by the colleges.

Special Populations Grant. A "special populations grant" provides funding for:

Special or extra services to assist special populations students to initiate, continue, or resume their education, including tutoring, educational and career counseling, referrals to external agencies, and testing/evaluation to determine courses or services needed by a special populations student.

Courses (not funded through credit hour grants) to provide the academic skills necessary to remedy or correct educational deficiencies to allow the attainment of educational goals, including remedial, adult basic education, adult secondary education, and English as a Second Language courses.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

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- | | |
|-------------------------|-----------------------|
| 1) Heading of the Part: | Personal Property |
| 2) Code Citation: | 20 Ill. Adm. Code 535 |
| 3) Section Numbers: | Proposed Action: |
| 535.10 | Amend |
| 535.12 | Add |
| 535.15 | Add |
| 535.17 | Add |
| 535.20 | Amend |
| 535.30 | Amend |
| 535.40 | Amend |
| 535.50 | Amend |
| 535.60 | Amend |
| 535.70 | Amend |
| 535.80 | Amend |
| 535.90 | Amend |
| 535.100 | Amend |
| 535.110 | Amend |
| 535.120 | Amend |
| 535.130 | Add |
| 535.140 | Add |

- 4) Statutory Authority: Implementing Section 3-4-3 and authorized by Sections 3-7-1 and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1987, ch. 38, pars. 1003-4-3, 1003-7-1 and 1003-7-4).

- 5) A Complete Description of the Subjects and Issues Involved: These amendments are being proposed to further clarify existing rules; provide greater control over committed persons' property; and limit the Department's responsibility for committed persons' property. The major specific changes are:

Require unapproved property to be disposed of in the same manner as contraband.

Require personal property to be purchased at or through the facility; and prohibit outside purchases of same or similar items which are available through the commissary unless the Chief Administrator authorizes such a purchase.

Allows the Chief Administrative Officer of each facility to establish the nature and value of jewelry, as well as the amount, which is allowed in the correctional facility.

Provides for personal property to be retained in the cell without an inventory if a temporary absence is expected to be one day or less.

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Allows for property to be inventoried and secured in the cell if the committed person is single-celled.

States the committed persons' responsibilities in regard to their personal property and limits the Department's responsibility.

Provides procedures for disposing of unclaimed property in accordance with Ill. Rev. Stat. 1987, ch. 39, par. 1003-4-3(b).

6) Will this proposed rule replace an emergency rule currently in effect?
No.

7) Does this rulemaking contain an automatic repeal date? Yes
X No

8) Does this proposed rule (amendment, repealer) contain incorporation by reference? No.

9) Are there any other proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: Not applicable; this rulemaking does not contain any State mandates.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

William H. Craine, Ph.D., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

All written comments received within 45 days of the date of the publication will be considered.

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF CORRECTIONS
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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 535
PERSONAL PROPERTY

Section	
535.10	Applicability
535.12	Definitions
535.15	Responsibilities
535.17	Personal Property
535.20	Permit
535.30	Audio-Visual Equipment
535.40	Reading Material
535.50	Commissary Items and Outside Vendor Purchases
535.60	Jewelry
535.70	Clothing and Other Property
535.80	Procedure for New Admissions
535.90	Procedure for Institutional Transfers
535.100	Procedure for Temporary Absence
535.110	Procedure for Parole or Discharge
535.120	Disposal of Permitted Personal Property Items
535.130	Security of Personal Property
535.140	Unclaimed Personal Property

AUTHORITY: Implementing Section 3-4-3 and authorized by Sections 3-7-1 and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1987, Ch. 38, pars. 1003-4-3, 1003-7-1 and 1003-7-4).

SOURCE: Adopted at 8 Ill. Reg. 14543, effective August 1, 1984; amended at ___ Ill. Reg. ___, effective _____.

Section 535.10 Applicability

This Part applies to the Adult, Juvenile and Community Services Divisions of the Department of Corrections.

(Source: Amended at ___ Ill. Reg. ___, effective _____.)

Section 535.12 Definitions

"Chief Administrative Officer" means the highest ranking official of a correctional facility.

"Department" means the Department of Corrections.

"Director" means the Director of the Department of Corrections.

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"Post/posted" means any means of making information available to committed persons including, but not limited to, notices, handbooks, and bulletins.

(Source: Added at ___ Ill. Reg. ___, effective ___.)

Section 535.15 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Part to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a rule in this Part specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his temporary absence or in an emergency.

(Source: Added at ___ Ill. Reg. ___, effective ___.)

Section 535.17 Personal Property

Committed persons may only acquire personal property in accordance with provisions of this Part, 20 Ill. Adm. Code 525, or posted rules established by the Chief Administrative Officer where the committed person is assigned.

(Source: Added at ___ Ill. Reg. ___, effective ___.)

Section 535.20 Permit

A permit for personal property items may be required by the committed person's assigned facility: The Chief Administrative Officer of the assigned facility may require committed persons to obtain a permit for certain personal property items. Permit requirements shall be posted.

(Source: Amended at ___ Ill. Reg. ___, effective ___.)

Section 535.30 Audio-Visual Equipment

a) Each facility shall develop and post a list of authorized audio-visual equipment each committed person assigned to the general population may be permitted to retain. Detachable speakers shall not be permitted except at community correctional centers as approved by the Chief Administrative Officer.

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- b) Use of headphones or earplugs shall be at the discretion of the Chief Administrative Officer or his designee.
- c) Misuse or abuse of audio-visual equipment may result in the temporary or permanent confiscation of these items in accordance with the provisions of 20 Ill. Adm. Code 504.
- d) Limitations of the use of audio-visual equipment may be imposed on committed persons if the usage is disruptive to others.
- e) Committed persons may not possess recording devices as personal property except at community correctional centers, but may use them on location when required in academic or vocational programs and where such use is approved by the facility and in such place and manner as is approved by the facility.
- f) A committed person placed in segregation shall be denied the privilege of possessing all audio-visual equipment until he is released from segregation or has his privileges restored in accordance with 20 Ill. Adm. Code 504. His items will be returned when he signs a receipt for them.
- g) Any committed person in segregation for more than 60 consecutive days on the same rule infraction may submit a written request to the Chief Administrative Officer or his designee for restoration of his audio-visual privileges. The request shall be considered only if the individual has had no disciplinary infractions in the 60-day period prior to the submission of his request.
- h) Any committed person in segregation who has had audio-visual privileges restored may lose them again for a subsequent disciplinary infraction.
- i) Any adult committed person who is placed in confinement pending investigation or disposition of a disciplinary infraction or who is confined for non-disciplinary reasons shall be allowed the same audio-visual privileges he had prior to being placed on such status.
- j) When audio-visual equipment is confiscated or returned, an audio visual equipment inventory form shall be given to the owner and a copy placed in his master record file. If the committed person does not have the proper permit, disciplinary action may be taken.

(Source: Amended at ___ Ill. Reg. ___, effective ___.)

Section 535.40 Reading Material

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- a) Each facility shall develop and post a list of the amount of reading material each committed person may be permitted to possess at any one time.
- b) The quantity of other reading materials may be limited by the Chief Administrative Officer or his designee consistent with reasonable safety and security concerns which may include, among other matters, impairment of visual observation or search of the living area.

(Source: Amended at ___ Ill. Reg. ___, effective ____.)

Section 535.50 Commissary Items and Outside Vendor Purchases

All personal property purchases shall be made through the commissary, where possible. Outside vendor purchases shall be approved by and made through the facility, and such purchases shall be limited to items which are not available through the commissary. No outside vendor purchases shall be allowed for the same or similar items available in the commissary without the approval of the Chief Administrative Officer. The quantity of commissary such items which a committed person retains may retain shall be limited by the Chief Administrative Officer or his designee and shall be posted.

(Source: Amended at ___ Ill. Reg. ___, effective ____.)

Section 535.60 Jewelry

A committed person may possess jewelry and shall be required to sign a statement of responsibility for such jewelry. Limits on the amount, nature or value of jewelry may shall be set by the Chief Administrative Officer or his designee and shall be posted.

(Source: Amended at ___ Ill. Reg. ___, effective ____.)

Section 535.70 Clothing and Other Property

The quantity of clothing and other property may be limited by the Chief Administrative Officer or his designee consistent with reasonable safety and security concerns which may include, among other matters, impairment of visual observation or search of the living area. Institutional policies regarding clothing and other property shall be posted.

(Source: Amended at ___ Ill. Reg. ___, effective ____.)

Section 535.80 Procedure for New Admissions

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- a) All sheriffs shall be supplied with a list of approved personal property items. Only the approved items will be accepted by the Department upon admission of the committed person.
- 1) Non-approved items shall be receipted and returned to the sheriff prior to his departure from the facility, when possible; or
- 2) The committed person shall be requested to authorize the disposition of any unapproved property, in writing, in accordance with 20 Ill. Adm. Code 501.230.
- b) An inventory shall be conducted in the presence of the committed person, and he The committed person shall be given a copy of the inventory record and a copy shall be placed in the committed person's master record file.
- c) The Chief Administrative Officer or his designee shall determine what personal property shall be marked to denote ownership.
- d) If the sheriff has departed before the inventory is completed, the committed person shall be asked to sign a form authorizing:
- i) Use of personal funds, if available, to forward non-approved items to a designated person; and/or
- 2) Destruction of certain non-approved items;
- e) If the committed person is without funds, the non-approved items may be:
- i) Stored for him at the facility until such time as he is transferred or released on parole; or
- 2) Forwarded to a designated person at State expense:
- (Source: Amended at ___ Ill. Reg. ___, effective ____.)
- Section 535.90 Procedure for Institutional Transfers
- a) Intra-institutional Transfer
- 1) When a committed person's person's assignment to a cell, room, or dormitory is changed, the individual shall generally be responsible for identifying all personal property and, in the presence of an employee, packing it in the containers provided. Unless the committed person is in a single cell or

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room, the packing shall be done in the presence of an employee.

- 2) If the committed persons' behavior is threatening, violent, or dangerous, the transferring officer shall cause the committed person's personal property to be packed and inventoried in the presence of a witness, and

A) Property of adults which is allowed in the segregation or confinement area shall be forwarded to the individual in the segregation unit or other living area in which the individual is confined, whenever possible, prior to the end of the shift on which the transfer was made.

B) Property of juveniles and adult property that is not allowed in the segregation or confinement area shall be secured until such time as the committed person is released from confinement.

C) The inventory form shall be signed by the transporting packing officer and the witness. A copy of the inventory form shall be placed in the personal property container, and the container shall be taped shut sealed before being transported to the new location. A copy of the inventory shall be given to the committed person; a copy shall be placed in the committed person's master record file, and a copy shall be maintained by the facility in the personal property files. In the presence of an employee, and the committed person and the employee shall sign the receipt:

b) Inter-institutional Transfers

- 1) It is the responsibility of the sending facility to inform the committed person of personal property items which are not approved at the receiving facility.

2) Prior to transfer, the committed person shall pack items acceptable to the receiving facility in approved containers and non-approved items in another container, taking an inventory of the items in each. Inventory and packing shall be made in the presence of an employee. Upon completion, a copy of the inventory record for approved property shall be placed in the approved container and the container shall be sealed.

- 3) Non-approved items shall be disposed of in accordance with

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Paragraph (d) or (e) of Section 535-80 the procedures established in 20 Ill. Adm. Code 501.230 prior to the transfer, whenever possible.

- 4) A copy of the inventory record for approved property shall be given to the committed person; a copy shall be placed in the committed person's master record file; and a copy shall be retained by the sending facility in the personal property files.

5) At the time of repossession, the sealed container shall be opened in the presence of an employee, and the contents listed on the committed person's inventory record shall be checked against the one sealed in the box. Any discrepancies shall be noted, and the employee and committed person shall sign the inventory form. A copy of the inventory shall be maintained by the receiving facility in the personal property files and in the committed person's master record file.

(Source: Amended at Ill. Reg. _____, effective _____.)

Section 535.100 Procedure for Temporary Absence

If a temporary absence is expected to be one day or less, the committed person's personal property need not be inventoried and packed, unless the committed person so requests. The following procedures shall be implemented when the committed person so requests, the absence is expected to exceed one day, or it becomes known that the absence will exceed one day.

a) Before a temporary absence of more than one day or when the committed person requests, the committed person shall, in the presence of an employee, inventory and pack personal property in the containers provided.

- 1) A copy of the inventory shall be placed in the container, and the container shall be sealed.

2) A copy of the inventory form shall be given to the committed person; and a copy shall be filed in his the committed person's master record file; and a copy shall be maintained by the facility in the personal property files.

b) In an emergency or when it becomes known that an anticipated absence will exceed one day, it shall be the responsibility of the shift commander to ensure that, before the end of the shift, an accurate inventory, preferably with a witness, is made of the committed person's personal property; that it is packed in an

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approved container and sealed with a copy of the inventory enclosed; and that it is stored in a designated secure area.

- 1) The shift commander or designee, the person making the inventory and packing the personal property, and the witness, if any, shall sign the inventory form.
- 2) A copy of the inventory form shall be placed in the committed person's master record file; and a copy shall be forwarded to him the committed person; and a copy shall be maintained by the facility in the personal property files.
- c) At the time of repossession, the sealed container must be opened in the presence of an employee, and the contents listed on the committed person's inventory slip checked against the one sealed in the box. Any discrepancies shall be noted, and the employee and committed person shall sign the inventory report. A copy of the inventory shall be maintained by the facility in the personal property files and in the committed person's master record file.
- d) For purposes of this Section, personal property of a single-celled committed person may be locked in the cell rather than placed in a container. All other provisions of this Section shall apply.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 535.110 Procedure for Parole or Discharge

- a) Prior to release on parole or discharge, it is the committed person's responsibility to pack personal property in containers provided and transport them to a designated storage area, under the supervision of a correctional employee.
- b) Personal property sent out prior to the release date must be inventoried; the inventory form must be signed by the witnessing correctional employee and the committed person; and the personal property must be sealed in the container provided, with a copy of the inventory enclosed. A copy of the inventory shall be given to the committed person and a copy shall be placed in the committed person's master record file and a copy shall be retained in the facility's personal property files.
- c) Personal property given to a third party for transport must be receipted by the person receiving it and a copy shall be placed in the committed person's master record file and a copy shall be maintained in the facility's personal property files.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

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Section 535.120 Disposal of Permitted Personal Property Items

- a) Committed persons shall not give, loan, sell or trade personal property items to other committed persons, except where authorized by this Part. When a committed person wishes to dispose of a permitted item by sending it out of the facility, selling it, giving it to another individual with approval by the Chief Administrative Officer, or authorizing its destruction, a signed record must be filed in the committed person's master record file and a copy of the record shall be maintained by the facility in the personal property files.
- b) The ownership of permitted an allowable property item may not be transferred from one committed person to another while the owner is assigned to a correctional facility.
- c) When a committed person wishes to dispose of an allowable property item by sending it out of the facility, selling it, donating it, giving it to a relative or guardian with approval by the Chief Administrative Officer, or authorizing its destruction, a signed record shall be filed in the committed person's master record file and a copy of the record shall be maintained by the facility in the personal property files.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 535.130 Security of Personal Property

- a) Committed persons shall be responsible for their personal property which is in their possession or under their control, i.e., on their person or in their cell, living area or work area.
- b) Committed persons shall be responsible for maintaining a copy of inventories, permits and/or receipts issued for their personal property.
- c) Committed persons' personal property shall be deemed abandoned in the event of an unauthorized absence such as an escape, runaway, attempted escape or runaway, or failure to return to the facility.
- d) The Department shall not be responsible for loss of abandoned property or for any items for which the committed person does not have an inventory record, a permit and/or receipt, or which would have been subject to an inventory but does not appear itemized on the inventory.

(Source: Added at ___ Ill. Reg. ___, effective ___)

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Section 535.140 Unclaimed Personal Property

Money or personal property held for a committed person who has separated from the Department by death, discharge, or unauthorized absence and which has not been claimed by the committed person or his legal representative may be disposed of as follows:

- a) Unclaimed money held for a period of one year may be transferred to the Inmate Benefit Fund and be expended for the special benefit of committed persons.
- b) Unclaimed clothing held for 30 days may be used or disposed of as determined appropriate by the Chief Administrative Officer.
- c) Other unclaimed personal property held for a period of one year may be used for the benefit of committed persons as determined appropriate by the Chief Administrative Officer.

(Source: Added at Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS
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1) Heading of the Part: Rights and Privileges

2) Code Citation: 20 Ill. Adm. Code 525

3) Section Numbers: 525.150
Proposed Action:
Amend

4) Statutory Authority: Implementing and authorized by Sections 3-2-2(d) and (i) and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 38, pars. 1003-2-2(d) and (i) and 1003-7-4).

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to inform committed persons and the public that committed persons' telephone calls are subject to monitoring and recording at any time, except as indicated in the rule. This rule is being promulgated to promote the safety and security of committed persons, the facility, and the public.

6) Will this proposed rule replace an emergency rule currently in effect?
No.

7) Does this rulemaking contain an automatic repeal date? Yes
X No

8) Does this proposed rule (amendment, repealer) contain incorporation by reference? No.

9) Are there any other proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: Not required; this rulemaking does not issue any state mandates.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

William H. Craine, Ph.D., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

All written comments received within 45 days of the date of the publication will be considered.

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

DEPARTMENT OF CORRECTIONS
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The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF CORRECTIONS
NOTICE OF PROPOSED AMENDMENTSTITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONSPART 525
RIGHTS AND PRIVILEGES
SUBPART A: VISITATION

Section	
525.10	Applicability
525.12	Definitions
525.15	Responsibilities
525.20	Visiting Privileges
525.30	Clergy Visitation
525.40	Attorney Visitation - Adult and Community Services Divisions
525.50	Attorney Visitation - Juvenile Division (Court Agreement)
525.60	Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

Section	
525.100	Applicability
525.110	Definitions
525.115	Responsibilities
525.120	Processing of Mail
525.130	Outgoing Mail
525.140	Incoming Mail
525.150	Telephone Privileges

SUBPART C: PUBLICATIONS

Section	
525.200	Applicability
525.202	Definitions
525.205	Responsibilities
525.210	General Guidelines
525.220	Publications Review Committee
525.230	Appeal Process for Non-approved Publications

SUBPART D: MARRIAGE OF COMMITTED PERSONS

Section	
525.300	Applicability
525.302	Definitions
525.305	Responsibilities
525.310	Request for Permission to Marry

DEPARTMENT OF CORRECTIONS
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AUTHORITY: Implementing Sections 3-2-2(d) and (i), 3-7-1, 3-7-2, 3-7-4, 3-8-7 and 3-10-8 of the Unified Code of Corrections (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 38, pars. 1003-2-2(a) and (i), 1003-7-1, 1003-7-2, 1004-7-4, 1003-8-7 and 1003-10-8) and Section 1-3(9) of the Juvenile Court Act of 1987 (Ill. Rev. Stat. 1988 Supp., ch. 37, par. 801-3(9)) and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 38, pars. 1003-2-2, 1003-7-1, and 1003-7-4). Subparts A and C are also implementing Consent Decrees (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977 and Green vs. Sielaff, #71 C 1403, N.D. Ill., 1973 and amended 1976).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 9664, effective July 1, 1988; amended at ___ Ill. Reg. _____, effective _____.

Section 525.150 Telephone Privileges

- a) Telephone privileges shall be granted to the committed person in accordance with his institutional status. Each committed person qualifying for telephone privileges may place collect calls to anyone in the free community anywhere in the continental United States. However, calls to parolees or ex-offenders require approval by the Chief Administrative Officer.
- b) In the case of valid emergencies, such as critical illness or death in a committed person's immediate family, consideration shall be given to allowing a special telephone call, regardless of the individual's institutional status.
- c) Committed persons who are the subject of a new criminal indictment, information or complaint shall be permitted to make reasonable telephone calls to attorneys for the purpose of securing defense counsel, regardless of the individual's institutional status.
- d) All committed persons' telephone calls shall be subject to monitoring and recording at any time by departmental staff, unless prior special arrangements have been made to make or to receive confidential telephone calls to or from their attorneys.
- e) Notices shall be posted at each telephone from which committed persons are normally permitted to place calls and in the committed persons' orientation manual. The notices shall state that committed persons' telephone calls may be monitored and/or recorded.

(Source: Amended at ___ Ill. Reg. _____, effective _____)

DEPARTMENT OF MINES AND METALS
NOTICE OF PROPOSED REPEALER

- 1) The Heading of the Part: An Act Relating to the Manufacture, Possession, Storage, Transportation, Use, Sale, or Gift of Explosives
- 2) Code Citation: 62 Ill. Adm. Code 200
- 3)

Section Number	Proposed Action
200.10	Repealed
200.20	Repealed
200.30	Repealed
200.40	Repealed
200.50	Repealed
200.60	Repealed
200.70	Repealed
200.80	Repealed
200.90	Repealed

- 4) Statutory Authority: The Illinois Explosives Act (P.A. 86-364, effective January 1, 1990)

- 5) A complete description of the subjects and issues involved:

P.A. 86-364, approved August 30, 1989, repealed "An Act for manufacture, possession, storage, transportation, use, sale or gift of explosives", approved July 12, 1939 as amended, and enacted a comprehensive new Illinois Explosives Act. Contemporaneously, with the repeal of this Part, the Department is proposing new Part 200 to implement the provisions of the newly enacted Illinois Explosives Act.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? Yes ☒ No ☐
If "Yes," please specify the date:

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed repealer will have no impact on local units of government

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

John C. Lynch, General Counsel

DEPARTMENT OF MINES AND MINERALS

NOTICE OF PROPOSED REPEALER

Illinois Department of Mines and Minerals
300 West Jefferson, Suite 300
P.O. Box 10137
Springfield, IL 62791-0137

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 7, 1989
- B) Types of small businesses affected: All persons and businesses storing, using, acquiring, possessing, disposing of or transferring explosive materials employing less than fifty people and having less than four million dollars in annual sales.
- C) Reporting, bookkeeping or other procedures required for compliance: Small businesses will be required to satisfy requirements for obtaining, maintaining and renewing licenses and certificates, and to comply with all requirements for storing, using, acquiring, possessing, disposing of or transferring explosive materials. In addition, small businesses will be required to comply with all recordkeeping and reporting requirements set forth in Subpart I.
- D) Types of professional skills necessary for compliance: None

The full text of the Proposed Repealer begins on the next page.

DEPARTMENT OF MINES AND MINERALS

NOTICE OF PROPOSED REPEALER

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 200

AN ACT RELATING TO THE MANUFACTURE, POSSESSION, STORAGE, TRANSPORTATION, USE, SALE, OR GIFT OF EXPLOSIVES

Section

200.10 Valid License or Certificate of Compliance Required
200.20 Making of Explosives
200.30 Information Required on Shipping Case
200.40 Records to be Kept by Persons Selling or Giving Away Explosives
200.50 Exceptions to Sections 200.10 and 200.40
200.60 Availability of Records
200.70 Markings on Less than a Case
200.80 Persons Exempt from having an Explosives License
200.90 Transportation on Same Motor Vehicle

AUTHORITY: Implementing and authorized by Section 13 of "An Act regulating the sale, use or gift of explosives" (Ill. Rev. Stat. 1981, ch. 96 1/2, par. 4801)

SOURCE: Amended September 15, 1973; codified at 7 Ill. Reg. 12867; Repealed at ___ Ill. Reg. ___, effective ____.

Section 200.10 Valid License or Certificate of Compliance Required

Every manufacturer, dealer, distributor or purveyor of explosives shall require all persons to whom explosives are given, delivered, transferred, or sold to have a valid license or certificate of compliance issued by the Department, the number of which and the expiration date to be entered upon each sales slip, delivery ticket, invoice or other document prepared in connection with the sale or transfer of possession, a copy of which shall be retained as a record by both the transferor or seller and transferee or buyer.

Section 200.20 Making of Explosives

All explosives offered for sale or given away in the State of Illinois shall be legibly identified by marking. The marks required by this Section shall identify the manufacturer and the location, date and shift of manufacture. The manufacturer shall place on each carton or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging; provided, that with respect to explosive materials of small size not suitable for marking on the individual items (for example blasting caps), it shall only be necessary to place such identification on the container used for their packaging. The above is in accordance with 26 CFR 181.109 Subpart

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Section 200.30 Information Required on Shipping Case

Each shipping case shall have marked on it the total weight of the explosives contained therein; the month and year of the explosives manufacture; and the length and the diameter of sticks, cartridges, or individual packages contained therein.

Section 200.40 Records to be Kept by Persons Selling or Giving Away Explosives

Every person selling or giving away an explosive shall keep:

- a) A record that enables him to trace the explosives passing from his hands to the recipient, said record to consist of a journal, book of record, invoice, inventory control record, federal form 4710, or other record which shows explosives delivered by manufacturer's name, count, weight, identification, or such other identifying mark as will enable the distributor to trace the explosives, and month and year of manufacture.
- b) The name, residence and business address of the recipient and the address to which the explosive is to be delivered, if different from the business address.
- c) The name, address, social security number, driver's license identification number and brief physical description of the person taking the explosive away.
- d) The type and license number of the vehicle by which it is to be transported.

Section 200.50 Exceptions to Sections 200.10 and 200.40

Sections 200.10 and 200.40(c) above do not apply when the transaction is between the manufacturer of the explosive and the manufacturer's employee or when the explosives involved in a transaction are being shipped by a common carrier direct from the manufacturer's place of business.

Section 200.60 Availability of Records

The journal or book of record or other record made by any person selling or giving away explosives shall be open at all times to inspection by any law enforcement official and any representative of the Department.

Section 200.70 Markings on Less than a Case

When fewer than an entire shipping case of explosives are sold or given away, the outside container of each piece shall reflect the explosive identification number.

Section 200.80 Persons Exempt from having an Explosives License

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During the official discharge of their duties, armed forces personnel, law enforcement personnel, and federal or state personnel, responsible for enforcing explosives legislation shall be exempt from having to have an Explosives License as specified under the provisions of "An Act regulating the sale, use, or gift of explosives," or Senate Bill No. 44.

Section 200.90 Transportation on Same Motor Vehicle

No blasting caps, regardless of type, may be transported on the same motor vehicle with other explosives, unless they are transported in accordance with 49 CFR 170-189.

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1) The Heading of the Part: The Illinois Explosives Act2) Code Citation: 62 Ill. Adm. Code 2003) Section Number:

Proposed Action:
New Section
200.10
200.11
200.12
200.100
200.101
200.102
200.103
200.104
200.105
200.106
200.107
200.108
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200.201
200.202
200.203
200.204
200.205
200.206
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200.302
200.400
200.401
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200.501
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200.503
200.504
200.505
200.600
200.601
200.602
200.603
200.604
200.700
200.701
200.800
200.801
200.802
200.803
200.804

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200.805 New Section
200.806 New Section
200.807 New Section
200.808 New Section
200.809 New Section
200.810 New Section
200.811 New Section
200.900 New Section
200.901 New Section
200.902 New Section
200.903 New Section
200.904 New Section
200.905 New Section
200.906 New Section
200.907 New Section
200.908 New Section
200.909 New Section
200.910 New Section
200.911 New Section
200.912 New Section
200.913 New Section
200.914 New Section

4) Statutory Authority: The Illinois Explosives Act (P.A. 86-364, effective January 1, 1990)5) A complete description of the subjects and issues involved:

P.A. 86-364 approved August 30, 1989 adopted a new Illinois Explosives Act and repealed the prior Act (An Act regulating the manufacture, possession, storage, transportation, use, sale or gift of explosives approved July 12, 1939, as amended). The new act applies to all storage, use, acquisition, possession, disposal and transfer of explosive materials except as otherwise provided in the Act.

The new act establishes a licensing scheme for persons possessing, use, purchase or transferring explosive materials, and requires storage certificates for the storage of explosive materials in magazines. The Act also sets forth requirements for obtaining licenses and storage certificates, standards for the storage, transportation and use of explosive materials, recordkeeping and reporting requirements for holders of licenses and certificates, and grounds for disciplinary action including the imposition of civil penalties for violations of the Acts provisions.

These proposed rules implement the provisions of the new act as follows:

Subpart A sets forth definitions used throughout Part 200, materials

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incorporated by reference, and rules of construction with other federal and state regulation of explosive materials.

Subpart B sets forth the requirements for making application for and obtaining a license to possess, use, purchase or transfer explosive materials.

Subpart C sets forth the requirements for making application and for obtaining storage certificates for magazines in which explosive materials will be stored.

Subpart D specifies fees to be assessed by the Department in the administration of the Act.

Subparts E, F, and G set forth requirements for storing explosive materials in magazines including the classification of magazines, the construction specifications for magazines, and operating and maintenance requirements necessary to assure that magazines are maintained in a safe and secure manner.

Subpart H sets forth special requirements for "day boxes" used to transport explosive materials from magazines to the blasting site.

Subpart I sets forth recordkeeping and reporting requirements and includes requirements for possessing and/or posting licenses and storage certificates, and for reporting to the Department when licenses or certificates are lost, stolen, destroyed, worn or damaged. With regard to transactional and inventory recordkeeping requirements. The rules provide that persons licensed or permitted by the Bureau of Alcohol, Tobacco and Firearms (BATF) need only satisfy BATF requirements to satisfy these rules.

Subpart J sets forth the procedural requirements for taking disciplinary action with respect to licenses and certificates and includes procedures for the assessments of administrative fines and for the immediate suspension of licenses or certificates in emergency situations.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? Yes X No
If "yes," please specify the date:

8) Do these proposed amendments contain incorporations by reference? Yes

9) Are there any other amendments pending on this Part? No

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10) Statement of Statewide Policy Objectives: The proposed rules will have no impact on local units of government

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

John C. Lynch, General Counsel
Illinois Department of Mines and Minerals
Stratton Office Building, Room 704
Springfield, IL 62706

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 7, 1989

B) Types of small businesses affected: All persons and businesses storing, using, acquiring, possessing, disposing of or transferring explosive materials employing less than fifty people and having less than four million dollars in annual sales.

C) Reporting, bookkeeping or other procedures required for compliance: Small business will be required to satisfy requirements for obtaining, maintaining and renewing licenses and certificates, and to comply with all requirements for storing, using, acquiring, possessing, disposing of or transferring explosive materials. In addition, small business will be required to comply with all recordkeeping and reporting requirements set forth in Subpart I.

D) Types of professional skills necessary for compliance: Knowledge of explosive materials.

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 200

THE ILLINOIS EXPLOSIVES ACT

SUBPART A: SCOPE, AUTHORITY AND DEFINITIONS

Section
200.10
200.11
200.12

Scope and Authority
Definitions
Incorporated Materials

SUBPART B: LICENSE APPLICATION

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200.100
200.101
200.102
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200.106
200.107
200.108

Application for Original Licensure
Contents of Application
Fingerprint Cards
Written Examination
Incomplete Application
Denial of Application
Refusal to Issue
License Renewal
Temporary License

SUBPART C: STORAGE CERTIFICATE APPLICATION

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200.200
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Application for Original Storage Certificate
Contents of Application
Incomplete Application
Denial of Application
Magazine Inspection
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SUBPART D: FEES

Section
200.300
200.301
200.302

Fees
Proration of Fees
Waiver of Fees - Government Agencies

SUBPART E: CLASSIFICATION OF MAGAZINES AND GENERAL
STORAGE REQUIREMENTS

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200.400
200.401
200.402

General Storage Requirements
Classification of Magazines
Location of Magazines -- Distances and Quantity

SUBPART F: MAGAZINE CONSTRUCTION STANDARDS

Section
200.500
200.501
200.502
200.503
200.504
200.505

Construction of Magazines
Type 1 Magazine
Type 2 Magazine
Type 3 Magazine
Type 4 Magazine
Type 5 Magazine

SUBPART G: MAGAZINE OPERATIONS AND MAINTENANCE

Section
200.600
200.601
200.602
200.603
200.604

Magazine Keeper
Security Precautions
Safety Precautions - General
Safety Precautions - Handling and Storage
Magazine Maintenance and Repair

SUBPART H: TYPE 3 MAGAZINES AND VEHICLES
AT BLAST AREAS

Section
200.700
200.701

Requirements for Type 3 Magazines
On-Site Vehicles; Warning Signs

SUBPART I: RECORDKEEPING AND REPORTING

200.800
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200.802
200.803
200.804
200.805
200.806
200.807
200.808
200.809
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Possession of License
Posting of Storage Certificate
Report of Lost, Stolen or Destroyed License or Storage Certificate
Worn or Damaged License or Storage Certificate
Report of Changed Conditions; Cancellation or Modification of
Storage Certificate
Report of Theft or Loss of Explosive Materials
Records of Transactions - Licensees and Certificate Holders
Daily Summary of Magazine Transactions
Transactions - Black Powder
Record of Annual Physical Magazine Inventory
Inspections

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SUBPART J: RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS

For the purpose of this Part the term:

Section	Notice of Department's Intended Action; Contents and Service
200.900	Request for Hearing on Department's Intended Action; Contents and Service
200.901	Notice of Hearing
200.902	Postponement or Continuance of Hearing
200.903	Hearing Officer; Powers and Duties
200.904	Pre-Hearing Conferences
200.905	Burden and Standard of Proof
200.906	Default
200.907	Evidence
200.908	Briefs
200.909	Hearing Officer's Decision
200.910	Final Administrative Decision
200.911	Administrative Fines
200.912	Immediate Suspension Without Notice of Hearing
200.913	Computation of Time
200.914	

SOURCE: Amended September 15, 1973; codified at 7 Ill. Reg. 12867; Part Repealed, New Part adopted at ___ Ill. Reg. ___, effective _____.

SUBPART A: SCOPE, AUTHORITY AND DEFINITIONS

Section 200.10. Scope and Authority

These rules implement the Illinois Explosives Act, approved August 30, 1989 (P.A. 86-0364) and apply to all storage, use, acquisition, possession, disposal and transfer of explosive materials except as otherwise provided in the Act. These rules are intended to supplement the requirements of any Federal or State law and regulations governing the storage, use, acquisition, possession, disposal and transfer of explosive materials, but shall be construed, wherever possible to avoid conflicting or duplicative requirements. In the event of a conflict between these rules and the laws and rules enforced by agencies of the federal government including the Bureau of Alcohol, Tobacco and Firearms, the Mine Safety and Health Administration and the Occupational Safety and Health Administration, the laws and rules enforced by agencies of the federal government shall control; provided that provisions of these rules shall not be deemed to be in conflict on the basis that they are more specific than, more stringent than or impose requirements for which no like requirements are contained in laws and rules enforced by agencies of the federal government.

Section 200.11. Definitions

"Acceptor" means a charge of explosives or blasting agent receiving an impulse from an exploding donor charge.

"Act" means the Illinois Explosives Act, approved August 30, 1989 (Public Act 86-0364).

"Ammonium Nitrate" means the ammonium salt of nitric acid represented by the formula NH_4NO_3 .

"ANFO" means an explosive material consisting of ammonium nitrate and fuel oil.

"Artificial Barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet at the top of the mound or wall, or a mound or revetted wall of other material offering equivalent protection. Artificial barricades which are vegetated shall be of sufficient slope to enable mowing.

"Barricaded" means the effective screening of a building containing explosives from a magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

"BATF" means the Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of Treasury.

"Black Powder" means a deflagrating or low explosive compound of an intimate mixture of sulfur, charcoal, and an alkali nitrate, usually potassium or sodium nitrate.

"Blast or Blasting" means the firing of explosive materials for such purposes as breaking rock or other material, moving material, or generating seismic waves. The assembly of explosive materials for such purpose.

"Blast Area" means the area of a blast within the influence of flying rock missiles, gases, and concussion.

"Blasting Agent" means any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 blasting cap, as defined by the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of Treasury, when unconfined.

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"Blasting Cap" means a detonator which is initiated by a safety fuse.

"Bulk Mix" means a mass of explosive material prepared for use in bulk form without packaging.

"Bulk Mix Truck or Delivery Equipment" means equipment (usually a motor vehicle with or without a mechanical delivery device) that transports explosive materials in bulk form for mixing or loading directly into blastholes, or both.

"Bullet-Resistant" means magazine walls or doors of construction resistant to penetration of a bullet of 150-grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second fired from a .30 caliber rifle from a distance of 100 feet perpendicular to the wall or door. When a magazine ceiling or roof is required to be bullet-resistant, the ceiling or roof shall be constructed of materials comparable to the side walls or of other materials which will withstand penetration of the bullet described above when fired at an angle of 45 degrees from the perpendicular. Tests to determine bullet resistance shall be conducted on test panels or empty magazines which shall resist penetration of 5 out of 5 shots placed independently of each other in an area at least 3 feet by 3 feet.

"Bullet-Sensitive Explosive Material" means explosive materials that can be detonated by 150-grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second when the bullet is fired from a .30 caliber rifle at a distance of not more than 100 feet and the test material, at a temperature of 70 to 75 F, is placed against a backing material of 1/2 inch steel plate.

"Cap Sensitivity" means the sensitivity of an explosive to initiation by a detonator. An explosive material is considered to be cap sensitive if it detonates with a No. 8 Test Detonator.

"Department" means Illinois Department of Mines and Minerals.

"Deflagration" means an explosive reaction such as a rapid combustion that moves through an explosive material at a velocity less than the speed of sound in the material.

"Detonating Cord" means a flexible cord containing a center core of high explosive and used to initiate other explosives.

"Detonation" means an explosive reaction that moves through an explosive material at a velocity greater than the speed of sound in the material.

"Detonator" means any device containing any initiating or primary

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explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges.

"Director" means Director of the Department of Mines and Minerals.

"Donor" means an exploding charge producing an impulse that impinges upon an explosive "acceptor" charge.

"Emulsion" means an explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion and includes high or low explosives. Manufactured articles, including, but not limited to, fixed ammunition for small arms, fire crackers, safety fuses, and matches are not explosives when the individual units contain explosives in such limited quantity and of such nature or in such packing that it is impossible to produce a simultaneous or a destructive explosion of such units which would be injurious to life, limb or property.

"Explosive materials" means explosives, blasting agents, and detonators.

"Fire-Resistant" means construction designed to offer reasonable protection against fire.

"Grains" means a system of weight measurement where 7000 grains are equivalent to one standard 16-ounce pound (0.45 kg).

"Hardwood" means red oak, white oak, hard maple, ash or hickory, free from loose knots, wind shakes, or similar defects.

"High Explosive" means explosives which are characterized by a very high rate of reaction, high pressure development, and the presence of a detonation wave in the explosive.

"Highway" means any public street, public highway, or public alley.

"Inhabited Building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assembly, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

"Inventory" means a listing of all explosive materials stored in a magazine.

"Low Explosive" means explosives which are characterized by deflagration

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or a low rate of reaction and the development of low pressure.

"Magazine" means any building or other structure or container, other than a factory building, used to store explosive materials. Where mobile or portable type 5 magazines are permissible and used, "magazine", for the purpose of obtaining certificates and calculating fees, means the site on which such magazines are located.

"Magazine Keeper" means a person responsible for the inventory and safe storage of explosive materials, including the proper maintenance of explosive materials, storage magazines and areas.

"Natural Barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

"Nonsparking Metal" means a metal that will not produce a spark when struck with other tools, rock, or hard surfaces.

"Person" means any individual, corporation, company, association, partnership, or other legal entity, except that, with reference to individual licenses or when the context otherwise requires, person means a natural person.

"Plywood" means exterior construction-grade plywood.

"Propagation" means the detonation of explosive charges by an impulse received from adjacent or nearby explosive charges.

"Public Highways Class A to D" means highways with average traffic volume of 3,000 or less.

"Railway" means any public steam, electric or other railroad or rail system which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

"Softwood" means Douglas fir or other wood of equal bullet resistance and free from loose knots, wind shakes or similar defects.

"Steel" means general purpose (hot or cold rolled) low-carbon steel or equivalent.

"Theft-Resistant" means construction designed to deter illegal entry into facilities used for the storage of explosive materials.

"Unbarricaded" means the absence of a natural or artificial barricade

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around explosive storage areas of facilities.

"Weather-Resistant" means construction designed to offer reasonable protection against weather.

Section 200.12. Incorporated Materials

a) The following federal and state regulations, and standards are incorporated or referenced in various sections of this Part:

- 1) "The American Table of Distances", - (February 1986 Edition) published by:

The Institute of Makers of Explosives
1120 Nineteenth St., N.W., Suite 310
Washington, D.C. 20036

- 2) "The National Electrical Code" - (1987 Edition) published by:

The National Fire Protection Association (NFPA)
1110 Vermont Ave., N.W., Suite 1210
Washington, D.C. 20005,

- 3) "The Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents" - (NFPA 495-1985 Edition) published by:

The National Fire Protection Association (NFPA)
1110 Vermont Ave., N.W., Suite 1210
Washington, D.C. 20005

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All materials incorporated by reference are available for inspection and copying at the Department's General Office, 300 W. Jefferson, Suite 300, Springfield, Illinois 62791-0137.

SUBPART B: LICENSE APPLICATION

Section 200.100. Application for Original Licensure

Any person who intends to possess, use, purchase or transfer explosive materials, unless exempted under Section 1004 of the Act, shall make application on forms provided by the Department. The application must be executed under penalties of perjury and accompanied by the required fee.

Section 200.101. Contents of Application

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The application for original licensure shall include:

- a) The applicant's full name and any aliases used by the applicant.
- b) The applicant's age, sex and date of birth.
- c) A physical description of the applicant, which shall include height, weight, color of hair and color of eyes.
- d) The applicant's social security number or drivers license number.
- e) The applicant's resident address and telephone number.
- f) A description of the purposes for which and the places where explosive materials are to be possessed or used.
- g) If explosive materials are to be possessed and used in connection with a business, the name of the business, the form of organization of the business, the applicant's relationship to the business and the address or addresses, and telephone number, of any offices in this State out of which the business operates.
- h) A recent passport size photograph.
- i) A personal history statement.

Section 200.102. Fingerprint Cards

An applicant for original licensure, except for an applicant who has previously submitted fingerprint cards to the Department, shall submit with the application two (2) sets of fingerprint cards on forms specified by the Department. The fingerprint cards shall be accompanied by the required fee.

Section 200.103. Written Examination

- a) The written examination shall encompass the following subject matter:
 - 1) Legal requirements for, and restrictions on, the possession, use, purchase, transfer, storage and disposal of explosive materials in Illinois.
 - 2) Safety principles in the transport, storage, handling and usage of explosive materials (as set forth in "Safety Library Publication No. 4", June 1987 edition of the Institute of Makers of Explosives).
- b) The passing grade shall be at least 80%.

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- c) An applicant who fails the first examination may be rescheduled at any time for re-examination. After the second and each subsequent failure, the application is ineligible for further examination until the expiration of at least 60 days from the previous examination.

Section 200.104. Incomplete Application

If the application does not contain all of the information or documents necessary for evaluation of the application, or if the fingerprint cards as originally submitted cannot be processed, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, or state that substitute fingerprint cards must be submitted, as the case may be, and shall advise the applicant that the application will be deemed denied unless the information, documents or fingerprints are submitted within 60 days following the date of notification.

Section 200.105. Denial of Application

If the applicant fails to qualify for an original license by reason of age, or if the applicant fails to pass the examination within one year of the date of application, or if the applicant fails to make complete application in accordance with Section 200.104 of this Part, the Department shall deny the application and notify the applicant in writing. The notice shall set forth the reasons for denial and instructions for making any reapplication.

Section 200.106. Refusal to Issue

If, after the Department's investigation of the application, the Department intends to refuse to issue a license, the Department shall notify the applicant in writing of the grounds upon which such intended refusal is based and of the applicant's right to a hearing pursuant to Section 200.900 of this Part.

Section 200.107. License Renewal

- a) A license issued pursuant to this Subpart is valid for 3 years from the date of issuance.
- b) The holder of a license may renew such license during the 60 day period preceding the expiration date thereof by submitting a renewal application on forms provided by the Department together with the required fee.
- c) Any license which is not renewed within 30 days following its expiration will be cancelled. Any requests after that date to renew or restore will be treated as a new application.

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- d) The extended renewal period under subsection (c) above does not allow a licensee to engage in any conduct or activities for which a license is required during the 30 day period after the license has expired.

Section 200.108. Temporary License

- a) Any person not a resident of Illinois who intends to possess, use, purchase or transfer explosive materials in Illinois on a limited basis may make application on forms provided by the Department for a temporary license. The application must be executed under penalties of perjury and accompanied by the required, non-refundable fee.
- b) The application for temporary licensure shall include the same information required for an original license under Section 200.101 of this Part and in addition shall include:

- 1) Evidence of a valid existing explosive license or permit issued by the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, such federal license to be of a classification appropriate to the activities to be conducted under the temporary license.
- 2) A complete description of the activities requiring the possession, use, purchase or transfer of explosive materials in Illinois including the location and length of the project or activity.
- 3) A current and valid storage certificate, if applicable to the activity, issued under Subpart C of this Part.

- c) A temporary license issued pursuant to this Section shall entitle the holder to engage only in those activities for which the license was issued and shall be valid only until the activities are completed, but in any event, no more than 3 months from the date of issuance.

SUBPART C: STORAGE CERTIFICATE APPLICATION

Section 200.200. Application for Original Storage Certificate

Any person who intends to store explosive materials shall make application on forms provided by the Department. The application must be executed under penalties of perjury.

Section 200.201. Contents of Application

The application for an original storage certificate shall include:

- a) The full name and the business and residence addresses and telephone

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numbers of the person making the application.

- b) The full name and the business and residence addresses and telephone numbers of the person having direct responsibility for the magazine (the magazine keeper), if different from the applicant.
- c) The location or proposed location of the magazine, including the township, county and, if the magazine is located in an unincorporated area, the name and distance from the nearest municipality.
- d) The kind and maximum quantity of explosive materials intended to be stored in the magazine.
- e) The distance or intended distance of the magazine from the nearest magazine building, railroad or highway, and whether the magazine is barricaded.
- f) A description of the purposes for which explosive materials are intended to be stored.
- g) The full names and explosive license numbers of all persons who will have access to and handle explosive materials, or a statement of the reasons for which an exemption from the individual license requirements is claimed under Section 1004 of the Act.

Section 200.202. Incomplete Application

If the application does not contain all of the information or documents necessary for the Department to evaluate the application, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

Section 200.203. Denial of Application

If an applicant fails to make complete application in accordance with Section 200.202 of this Part, the Department shall deny the application and notify the applicant in writing. The notice shall set forth the reasons for denial and instructions for making any reapplication.

Section 200.204. Magazine Inspection

Upon receipt of a complete application for an original storage certificate the Department shall inspect magazine. If the inspector finds that the magazine is located and constructed in accordance with the Act and these Rules, the inspector shall determine the quantity of explosive materials that may be

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stored and shall calculate the required fee. Upon receipt of the inspector's report and the required fee, the Department shall issue the storage certificate.

Section 200.205. Refusal to Issue

If, after the Department's investigation of the application, the Department intends to refuse to issue a storage certificate, the Department shall notify the applicant in writing of the grounds upon which such intended refusal is based, and of the applicant's right to a hearing pursuant to Section 200.900 of this Part.

Section 200.206. Renewal

A storage certificate issued under this Subpart shall expire on the last day of February of each year. The holder of a storage certificate may renew the certificate by submitting a renewal application on forms provided by the Department together with the required fee. The renewal application and fee shall be delivered to the Department at the time of the annual inspection of the magazine during the 6 month period immediately preceding the expiration date of the storage certificate.

SUBPART D: FEES

Section 200.300. Fees

The following fees shall be paid to the Department for administration of the Act and are non-refundable.

- The fee for an application and to receive a license is \$75.00 (plus the amount required under contract with the Department of State Police for processing and/or reprocessing the fingerprints).
- The fee for re-examination of an applicant is \$25.00.
- The renewal fee for a license is \$75.00.
- The fee for a temporary license is \$75.00.

- Except as provided in subsections (f) and (g) below pertaining to Type 5 magazine storage sites and cap magazines, the fee for an application and to receive a storage certificate is as follows:

Quantity of Explosive Materials	Fee
1 - 50 lbs	\$25
51 - 1,000 lbs	\$50
1,001 - 50,000 lbs	\$100

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50,001 - 300,000 lbs \$200

- The fee for an application and to receive a storage certificate for a Type 5 magazine storage site is as follows:

Quantity of Explosive Materials	Fee
1 - 50,000 lbs	\$100
50,001 - 300,000 lbs	\$200

- The fee for an application and to receive a storage certificate for the storage of blasting caps is as follows:

Number of Caps	Fee
1 - 1,000	\$25
1,001 - 50,000	\$100
over 50,000	\$200

- The renewal fee for a storage certificate is the same as for an original certificate.

- The fee for a replacement license or storage certificate (lost, stolen, destroyed) is \$25.00.

- The fee for a duplicate original license or storage certificate (worn or damaged) is \$25.00.

Section 200.301. Proration of Fees

An original storage certificate applied for and received during the 6 month renewal period ending February 28 shall be issued for the balance of the renewal period and the following full year, and the fee shall be calculated at 1 1/2 times the fee specified in Section 200.300(e), (f) and (g) of this Part.

Section 200.302. Waiver of Fees - Government Agencies

Fees assessed in connection with licenses and storage certificates will be waived for agencies of the federal government and the State of Illinois and its political and civil subdivisions. Fees will also be waived for officers and employees of such agencies if the agency submits a letter on its letterhead setting forth that the license or storage certificate is required in the discharge of the officer's or employee's duties.

SUBPART E: CLASSIFICATION OF MAGAZINES AND GENERAL STORAGE REQUIREMENTS

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Section 200.400. General Storage Requirements

- a) All explosive materials shall be stored in magazines which meet the requirements of this Subpart unless they are:

- 1) In process of manufacture.
- 2) Being used.
- 3) Being loaded or unloaded into or from transportation vehicles or while in the course of transportation.

- b) When blasting agents are stored in the same magazine with explosives, the magazine shall be suitable for storage of high explosives.

- c) Detonators such as blasting caps, electric blasting caps or non-electric delay devices shall not be stored in the same magazine with other explosive materials.

- d) Explosive materials which are classified as high explosives shall be stored in Types 1,2, or 3 magazines. Explosive materials which are classified as low explosives may be stored in Types 1,2,3, or 4 magazines. Explosive materials which are classified as Blasting Agents may be stored in Types 1,2,3,4, or 5 magazines.

- e) Detonators shall be stored in Types 1,2, or 3 magazines, except that electric blasting caps having leg wires at least four feet long (provided they are in the configuration as supplied by the manufacturer) may be stored in a Type 4 magazine.

- f) Detonating cord shall be stored in either a Type 1,2, or 3 magazine and may be stored in these same type magazines with other explosive materials, except detonators.

Section 200.401. Classification of Magazines

- a) Type 1 Magazine. A permanent magazine for the storage of high explosives. Type 1 magazines are bullet resistant, fire resistant, theft resistant, and weather resistant.

- b) Type 2 Magazine. A portable or mobile magazine for outdoor or indoor storage of high explosives. Type 2 magazines are bullet resistant, fire resistant, theft resistant, and weather resistant.

- c) Type 3 Magazine. A portable magazine for the temporary storage of explosive materials while attended. An example is a "day box" at the site for blasting operations. Type 3 magazines are fire resistant, theft resistant, and weather resistant.

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- d) Type 4 Magazine. A permanent, portable or mobile magazine for outdoor or indoor storage of low explosives. Type 4 magazines are fire resistant, theft resistant and weather resistant.
- e) Type 5 Magazine. A permanent, portable or mobile magazine for the storage of blasting agents. Type 5 magazines include tanks, tank trailers, tank trucks, semi-trailers, bulk mix trailers, bulk mix trucks and bins. Type 5 magazines are theft resistant, and outdoor Type 5 magazines are also weather resistant.

Sec. 200.402. Location of Magazines -- Distances and Quantity

- a) All outdoor magazines except Type 3 shall be located as provided in the American Table of Distances when determining minimum distances of inhabited buildings, passenger railways, and public highways.

- b) Separation Distances in the American Table of Distances and the table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents shall be used in determining minimum separation of storage facilities for explosives, blasting agents, and ammonium nitrate. The American Table of Distances should be used to determine safe distances from inhabited dwellings, highways, passenger railways, and between explosive materials magazines. The table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents should be used to determine non-propagation distances to ANFO blasting agents and to ammonium nitrate. The greater of the distances shown in the American Table of Distances and in the table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents should be used to determine the required separation between a magazine for storage of explosives and a magazine for storage of blasting agents.

- c) The storage of explosive materials in indoor magazines shall not exceed 50 pounds in any building or facility. No indoor magazine shall be located in a residence or dwelling. Indoor magazines shall be located on a floor which has an exit at or ramp to exterior grade level. Indoor magazines shall be located not more than 10 feet from such an exit. Two magazines may be located in the same building or facility when one is used for detonators only, in quantities not in excess of 5,000, and when a distance of 10 feet is maintained between magazines. All indoor magazines must be on casters or wheels to facilitate removal from a building in an emergency. The local fire department shall be notified of the location of the magazines and of any change in location.

- d) A Type 3 magazine is not subject to the American Table of Distances, but shall be located as far away as practicable from neighboring

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inhabited buildings, railways, highways, and any other magazines.

SUBPART F: MAGAZINE CONSTRUCTION STANDARDS

Section 200.500. Construction of Magazines

a) Magazines constructed according to the following minimum specifications are approved as bullet-resistant as defined by Section 200.11 of this Part (all steel and wood dimensions are actual thicknesses; all concrete block and brick dimensions are nominal thicknesses):

- 1) Exterior of steel:
 - A) 5/8 inch steel with an interior lining of any type of non-sparking material.
 - B) 1/2 inch steel with an interior lining of not less than 3/8 inch plywood.
 - C) 3/8 inch steel with an interior lining of:
 - i) 2 inches of hardwood, or
 - ii) 3 inches of softwood, or
 - iii) 2 1/4 inches of plywood.
 - D) 1/4-inch steel with an interior lining of:
 - i) 3 inches of hardwood, or
 - ii) 5 inches of softwood, or
 - iii) 5 1/4 inches of plywood, or
 - iv) 1 1/2 inches of plywood with an intermediate layer of 2 inches of hardwood.
- E) 3/16-inch steel with an interior lining of:
 - i) 4 inches of hardwood, or
 - ii) 7 inches of softwood, or
 - iii) 6 3/4 inches of plywood, or

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- iv) 3/4 inches of plywood with an intermediate layer of 3 inches of hardwood.

F) 1/8-inch of steel with an interior lining of:

- i) 5 inches of hardwood, or
- ii) 9 inches of softwood, or
- iii) 3/4 inches of plywood with an intermediate layer of 4 inches of hardwood, or
- iv) 3/4 inches of plywood with a first intermediate layer of 3/4-inch plywood and a second intermediate layer of 3-5/8 inches of well-tamped dry sand or sand and cement mixture.

2) Exterior of any type of fire-resistant material which is structurally sound with:

- A) An interior lining of 1/2-inch plywood placed securely against an intermediate layer of:

- i) 4 inches solid concrete block, or
- ii) 4 inches solid brick, or
- iii) 4 inches solid concrete.

- B) An interior lining of 3/4 inches of plywood and a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inch well-tamped dry sand or sand and cement mixture, a third intermediate layer of 3/4-inch plywood, and a four intermediate layer of 2 inches of hardwood or 14-gauge steel.

- C) An intermediate 6 inch space filled with well-tamped dry sand or well-tamped sand and cement mixture.

3) Masonry construction of:

- A) Standard 8-inch concrete block with voids filled with well-tamped dry sand or well-tamped sand and cement mixture, or
- B) Standard 8-inch solid brick, or
- C) 8-inch thick solid concrete.

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- b) The ground around a magazine shall be graded in such a manner that water will not drain into the magazine.
- c) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines. Upon request, electric lighting systems for magazines will be authorized by the Department if they meet the standards prescribed by the National Electrical Code, for the conditions present in the magazine at any time. All electrical switches must be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.
- d) Type 1, 2, 3 or 4 magazines constructed with masonry walls or with any ferrous metal must have such interior surfaces covered with a non-sparking lattice, paint, mastic, or equivalent lining to prevent direct contact with stored explosive materials.
- e) In a Type 5 magazine, ferrous metal may be exposed on the interior of the magazine provided it cannot rupture the packages of explosive materials.

Section 200.501. Type I Magazine

A Type I magazine shall be a permanent structure such as a building or an igloo that is bullet-resistant, fire-resistant, theft-resistant, weather-resistant, and ventilated.

- a) Walls.
The walls may be constructed according to any of the specifications listed in Section 200.500 of this Part.
- b) Doors.
The doors may be constructed according to any of the specifications listed in Section 200.500 of this Part.
- c) Roof.
The roof may be constructed of any type of structurally sound materials which are or have been made fire-resistant on the exterior.
- d) Roof or Ceiling.
Where the natural terrain around a Type I magazine makes it possible to shoot a bullet through the ceiling or roof at such an angle that a bullet could strike the explosive materials stored in the magazine,

then either the roof or ceiling shall be of bullet-resistant construction. A bullet-resistant roof may be constructed according to any of the specifications listed in Section 200.500 of this Part. A bullet-resistant ceiling may be constructed at the eave line, covering the entire area of the magazine except the space necessary for ventilation. Examples of ceiling construction that are considered bullet-resistant are:

- 1) A sand tray having a depth of not less than 4 inches of sand.
- 2) Any construction meeting specifications of Section 200.500 of this Part.

e) Foundation.

The foundation may be of masonry, wood, or metal and shall be completely enclosed except for openings to provide cross-ventilation. A wooden foundation enclosure shall be covered on the exterior with a fire-resistant material.

f) Floor.

The floor may be constructed of wood or other suitable materials. Floors constructed of materials that may cause sparks shall be covered with a surface of non-sparking materials or the packages of explosive materials shall be placed on pallets of non-sparking materials.

g) Ventilation.

Ventilation shall be provided to prevent dampness and heating of stored explosive materials. Ventilating openings shall be screened to prevent the entrance of sparks. Ventilation openings in side walls and foundations shall be offset or shielded for bullet-resistant purposes. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floors and between the side walls and the ceiling shall have a wooden lattice lining or equivalent to prevent the packages of explosive materials from being stacked against the side walls and blocking the air circulation.

h) Locks.

Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of a mortise lock and a padlock; or a three point lock, or equivalent type of lock that secures a door to the frame at more than one point. Padlocks shall be steel having at least five

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tumblers and at least 3/8 inch diameter case-hardened shackle. All padlocks shall be protected by 1/4 inch steel hoods that are installed in such a manner as to discourage insertion of bolt cutters, saws, files, or levering devices. Doors that are secured by at least two substantial internal bolts or bars do not require additional locking devices. Hinges and hasps and all locking hardware shall be rigidly secured and fastened by welding or through bolts which cannot be removed when the door is locked.

Section 200.502. Type 2 Magazine

A Type 2 magazine shall be a portable or mobile structure, such as a box, skid-magazine, trailer or semi-trailer, that is bullet-resistant, fire-resistant, theft-resistant, weather-resistant, and ventilated, except that Type 2 indoor magazines need not be bullet or weather-resistant or ventilated. Any construction specified for a Type 1 magazine is acceptable for a Type 2 magazine.

a) Type 2 Outdoor Magazines. Outdoor magazines shall be constructed according to the following specifications or to any of the specifications listed in Section 200.500 of this Part.

- 1) The exterior and doors shall be constructed of not less than 1/4-inch steel and lined with at least two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or which overlap the sides by at least one inch when in a closed position.
- 2) Floors covered of ferrous metal shall be covered with a surface of non-sparking material. Magazines with top openings shall have a lid that overlaps the sides by at least one inch when in closed position.
- 3) The magazine shall be supported in such a manner as to prevent the floor from having direct contact with the ground. Magazines less than one cubic yard in size shall be securely fastened to a fixed object to prevent theft of the entire magazine.
- 4) Hinges, hasps, locks, and locking hardware shall conform to the provisions for Type 1 magazines as specified in Section 200.501(h) of this Part. When unattended, a vehicular magazine shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.

b) Type 2 Indoor Magazine

- 1) Type 2 indoor magazines constructed of wood shall have sides, bottoms, and lids or doors constructed of two-inch wood and

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shall be well braced at corners. The magazines shall be covered with sheet metal of not less than 26 gauge. Nails exposed to the interior or such magazines shall be countersunk.

- 2) Type 2 indoor magazines constructed of metal shall have sides, bottoms, the lids or doors constructed of 12 gauge metal and shall be lined inside with a non-sparking material. Edges of metal lids shall overlap sides at least one inch.
- 3) Type 2 indoor magazines shall be provided with substantial wheels or casters to facilitate removal from a building in an emergency. The lid of such magazines shall have substantial strap hinges and a means for locking with at least a five tumbler steel padlock having at least a 3/8 inch diameter case hardened shackle. The magazines shall be kept locked except during the placement or removal of explosive materials.
- 4) Type 2 indoor magazines shall be painted red and shall bear lettering in white, on top, at least three inches high, "Explosives - Keep Fire Away."

Section 200.503. Type 3 Magazine

A Type 3 magazine shall be a portable structure that is fire-resistant, theft-resistant, weather-resistant, and ventilated.

a) Type 3 magazines shall be constructed according to the following specifications or to any of the specifications listed in Section 200.500 of this Part which is practical.

- 1) A Type 3 magazine is to be constructed of not less than number 12 gauge (.1046 inches) steel, lined with at least either 1/2-inch plywood or 1/2-inch Masonite-type hardboard.
- 2) Doors must overlap sides by at least one inch.
- 3) Hinges and hasps are to be attached by the welding, riveting or bolting with the nuts on the inside.

b) Type 3 magazines shall be equipped with at least a five-tumbler steel padlock having at least a 3/8 inch-diameter case hardened shackle.

Section 200.504. Type 4 Magazine

A Type 4 magazine shall be a permanent, portable, or mobile structure such as a building, igloo, box, semi-trailer or other mobile containers that is fire-resistant, weather-resistant, and ventilated, except that over-the-road trucks or semi-trailers used for temporary storage need not be ventilated or

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fire-resistant.

a) Type 4 Outdoor Magazine.

A Type 4 outdoor magazine shall be constructed of masonry, wood covered with metal, fabricated metal or a combination of these materials. The door shall be metal or wood covered with metal. The requirements of Section 200.501 (e), (f) and (h) of this Part pertaining to foundations, floors, and locks shall apply to permanent Type 4 outdoor magazines.

b) Type 4 Indoor Magazine.

A Type 4 indoor magazines shall be constructed in accordance with the provisions for a Type 2 indoor magazine set forth in Section 200.502 of this Part.

Section 200.505. Type 5 Magazine

A Type 5 magazine shall be a permanent, portable, or mobile structure such as a building, igloo, box, bin, tank, semi-trailer, bulk trailer, tank trailer, bulk truck, tank truck or other mobile container that is fire-resistant, theft-resistant, weather resistant, and ventilated except that over-the-road trucks or semi-trailers used for temporary storage need not be fire-resistant or ventilated and indoor magazines need not be weather-resistant or entilated. Interior of Type 5 magazines need not be covered with non-sparking material.

a) Each door of Type 5 magazine shall be locked with at least one steel case five-tumbler padlock having at least a 3/8 inch diameter case-hardened shackle. A hood for the padlock is not required. Hinges and hasps and all locking hardware shall be rigidly secured and fastened by welding or through bolts which cannot be removed when the door is locked.

b) When unattended, a vehicular magazine shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.

SUBPART G: MAGAZINE OPERATIONS AND MAINTENANCE

Section 200.600. Magazine Keeper

a) Magazines shall at all times be in the charge of a competent person, known as the Magazine Keeper, who shall be at least 21 years of age, and who shall be conversant with and be responsible for the enforcement of all safety and security precautions. The current business and residence addresses and telephone numbers of the

Magazine Keeper shall be on file with the Department at all times.

b) The Magazine Keeper is responsible for seeing that the magazine is operated and maintained in accordance with these rules and that all reports and records are made and kept in accordance with Subpart I of this Part.

Section 200.601. Security Precautions

a) Inspection.

All magazines containing explosive materials shall be inspected at least every 7 calendar days to determine whether there has been an unauthorized entry or attempted entry into the magazines; or to determine whether there has been unauthorized removal of the magazines or their contents. This inspection does not require a physical inventory unless there is evidence of unauthorized entry or removal.

b) Locks.

Magazine doors shall be kept locked, except during the placement or removal of explosive materials, or during inspections or inventories.

Section 200.602. Safety Precautions - General

a) Safety Rules.

Safety rules (available from the Department) covering the operations of magazines shall be posted on the interior of the magazine door.

b) Warning Signs.

The premises upon which all outdoor magazines are located shall be posted with signs reading "Explosives - Keep Off", or "Explosives - Magazine - Dangerous" or other similar words of warning.

c) Combustible, Sparking Materials, Equipment.

Magazines shall be used exclusively for the storage of explosive materials and blasting accessories. No metal tools other than nonferrous conveying equipment may be stored in the magazine unless protected by a non-sparking paint. Combustible materials shall not be stored within 50 feet of magazines.

d) Smoking, flames.

Smoking, matches, open flames, spark-producing devices, and firearms

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shall not be permitted inside of or within 50 feet of magazines, except that authorized persons may carry firearms within 50 feet of but not inside a magazine.

e) Unstable, Leaking Materials.

When explosive materials have deteriorated to an extent that they are in an unstable or dangerous condition, or any liquid leaks from any explosive material, then the person in possession of such explosive material shall immediately proceed to deal with such explosive material in accordance with the instructions of the manufacturer. Only experienced persons shall direct the work of destroying explosive materials.

Section 200.603. Safety Precautions - Handling and Storage

a) Use of Stocks.

When explosive material is removed from a magazine for use, the oldest stocks shall be removed first.

b) Like Stocks Together.

Corresponding grades and brands shall be stored together and in such a manner that brand and grade marks are visible. All stocks shall be stored so as to be easily counted and checked.

c) Stacking.

Containers of explosive materials shall be stacked in a stable manner to prevent shifting or falling. Rigid containers of explosive materials shall be laid flat, and cases with top side up.

d) Ventilation.

Explosive materials shall be stored within a magazine so as not to interfere with required ventilation.

e) Black Powder.

Black powder, when stored in the same magazine with other explosive material, shall be stacked separately.

f) Containers.

Containers of explosive materials which have been opened shall be securely closed before being placed in a magazine. Only fiberboard containers may be opened in the magazine.

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g) Damaged Containers.

Containers of damaged explosive materials shall not be unpacked or repacked in, or within 50 feet of, a magazine or in close proximity to other explosive materials.

h) Non-Sparking Tools.

Tools used for opening containers of explosive materials shall be constructed of non-sparking material, except that metal slitters may be used for opening fiberboard containers provided that the metal slitter does not come into contact with any metallic fasteners which may be in or part of the case. Only a wooden wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials.

i) Stained Floors.

Magazine floors stained with liquid shall be dealt with according to instructions of the manufacturer.

Section 200.604. Magazine Maintenance and Repair

a) Sweeping, Cleaning.

Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings of explosive materials from the floors of magazines shall be disposed of in accordance with the instructions of the manufacturer.

b) Exterior Maintenance.

The land within 25 feet of any magazine shall be kept clear of rubbish, brush, dried grass, leaves, dead trees, and all live trees less than ten feet high.

c) Interior Repairs.

When magazines need interior repairs, all explosive materials shall be removed therefrom and the floors cleaned before and after making repairs.

d) Exterior Repairs.

In making exterior magazine repairs, when there is a possibility of causing sparks or fire, all explosive materials shall first be

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removed from the magazine.

e) Storage During Repair.

Explosive materials removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the explosive materials shall be properly returned to the magazine.

SUBPART H: TYPE 3 MAGAZINES AND VEHICLES
AT BLAST AREAS

Section 200.700. Requirements for Type 3 Magazines

- a) Type 3 magazines are intended only for the temporary storage of explosive materials and are authorized for storage only during transport to and use at the blast area.
- b) Type 3 magazines containing explosive materials must be attended at all times. For the purposes of this paragraph, "attended at all times" means that the magazine must at all times be within the line of sight and visible to a member of the work or blasting crew authorized to enter the magazine.
- c) Type 3 magazines must be locked during transport to and from the permanent magazine and blast area except during continuous drilling and loading at the site. The requirements that Type 3 magazines be locked as specified in this paragraph are in addition to the requirements that Type 3 magazines be attended at all times.
- d) Daily, at the conclusion of blasting operations all explosive materials shall be returned to a Type 1,2,4 or 5 magazine as appropriate for unattended storage.
- e) Type 3 magazines and blast areas shall be posted with warning signs in accordance with Section 200.602(b) of this Part.

Section 200.701. On-Site Vehicles; Warning Signs

- a) Every vehicle carrying explosive materials on mine, quarry, construction or other blast areas shall have the word "explosive" painted on or attached to all 4 sides of the vehicle in white letters at least 8 inches in height against a red background.
- b) The requirements of subsection (a) above do not apply to any vehicle placarded in accordance with "An Act to require labeling of equipment and facilities for the use, transportation, storage and manufacture

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of hazardous materials and to provide for a uniform response system to hazardous materials emergencies", approved August 26, 1976 as amended (Ill. Rev. Stat. 1987, Ch. 127, pars. 1251 et. seq.).

SUBPART I: RECORDKEEPING AND REPORTING

Section 200.800. Possession of License

Licenses issued under Subpart B of this Part must be carried on the person at all times when the original licensee is purchasing, possessing, using or transferring explosive materials.

Section 200.801. Posting of Storage Certificate

The original storage certificate issued under Subpart C of this Part must be posted in the magazine for which the certificate was issued, or kept at the magazine keeper's principal place of business (or residence if no separate business office is maintained). If the original storage certificate is kept at the magazine keeper's principal place of business or residence, a copy shall be posted in the magazine.

Section 200.802. Report of Lost, Stolen or Destroyed License or Storage Certificate

- a) Upon discovery that a license or storage certificate has been lost, stolen or destroyed, the holder must notify the Department within 5 business days.
- b) The written notice shall be executed under penalties of perjury and include a description of the time, location and circumstances surrounding the loss, theft or destruction of the license or certificate.
- c) Upon receipt of the notice, the Department will cancel the license or storage certificate, and upon payment of the required fee, will issue a new original license or storage certificate with a newly assigned license or certificate number.
- d) At any time a lost or stolen certificate is found or recovered, it must be returned to the Department.

Section 200.803. Worn or Damaged License or Storage Certificate

At any time a license or storage certificate becomes worn or damaged to the extent that it is illegible in any respect, it must be returned to the Department. Upon receipt of the original license or storage certificate the Department will issue a duplicate original.

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Section 200.804. Report of Changed Conditions; Cancellation or Modification of Storage Certificate

- a) The holder of a certificate of storage shall notify the Department of any changed condition affecting the certificate of storage. Changed conditions include the relocation of a magazine, the construction of additional magazines, and the construction and/or opening of an inhabited building, highways or railways affecting the distance requirements set forth in Section 200.402 of this Part.
- b) Notification shall be in writing and shall be made as soon as practicably possible after discovery of the changed condition, but in any event no later than 5 business days prior to the intended relocation or addition of magazines, or the scheduled habitation or public opening of buildings, highways and railways.
- c) In circumstances in which the holder had no notice of a changed condition affecting the certificate of storage, the holder shall contact the Department immediately by telephone.
- d) Upon notification, the Department will conduct an inspection and will cancel or modify the certificate of storage as appropriate. Modification may include relocation, reduction of the quantity of explosive materials which may be stored and the requirement of a barricade.

Section 200.805. Report of Theft or Loss of Explosive Materials

- a) A licensee or certificate holder shall report the theft or loss of explosive materials to the Department within 24 hours of discovery by telephone and in writing.
- b) The written notice shall be executed under penalties of perjury on forms provided by the Department and shall include a complete description of the explosive materials, including the manufacturer, brand name, any manufacturer marking, and quantity, and the circumstances surrounding the theft or loss. The written notice shall also identify local law enforcement agencies contacted by the licensee or certificate holder.
- c) The requirements of subsection (b) above shall be satisfied, for any person holding a license or permit issued by BMTF, by filing with the Department a copy of written notification to BMTF.

Section 200.806. Records of Transactions - Licensees and Certificate Holders

- a) Every licensee and holder of a storage certificate shall maintain a

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record of each transaction in which explosive materials are sold, purchased or otherwise transferred. The record shall be made on a sales slip, delivery ticket, invoice, BMTF transaction record form, or other document and shall include:

- 1) the name and address of the seller or person from whom the explosive materials were procured;
 - 2) the name, address and license or certificate number (with expiration date) of the purchaser or person to whom the explosive materials were delivered;
 - 3) the date of purchase or delivery; and
 - 4) the quantity and description of the explosive materials.
- b) In the case of a licensee the transaction record shall be kept with the explosive materials and shall be produced by the licensee upon request.
- c) Records of transactions for each license or certificate shall be kept and maintained for a minimum of one year from the date of the transaction.
- d) The requirements of this Section shall not apply to any license or storage certificate holder who is a holder of a license or permit issued by BMTF and who satisfies the recordkeeping requirements for transactions of explosive materials prescribed by BMTF.

Section 200.807. Daily Summary of Magazine Transactions

- a) A record of daily transactions shall be kept for each magazine other than a Type 3 magazine. The record shall contain, by manufacturer or brand name, the total quantity of explosive materials received in and removed from the magazine, and the total remaining on hand at the end of the day. Any discrepancy which indicates a theft or loss of explosive materials must be reported in accordance with Section 200.805 of this Part.

- b) The requirements of this Section shall not apply to a storage certificate holder who is a holder of a license or permit issued by BMTF and who satisfies the requirements for making daily summaries of magazine transactions prescribed by BMTF, but such compliance will not relieve the holder from making any reports under Section 200.805 of this Part.

Section 200.808. Transactions - Black Powder

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a) In lieu of the requirements of Sections 200.806 and 200.807 of this Part, a holder of a storage certificate who engages in the sale of black powder in quantities not exceeding 5 pounds for sporting and recreational uses shall maintain a record of each transaction. The record shall be made in a book or ledger kept for that purpose and shall include:

- 1) the name, address and storage certificate number of the seller;
- 2) the name and address of the purchaser;
- 3) the Firearm Owners Identification (FOID) card number of the purchaser if the purchaser is a resident of Illinois, or other positive identification if the purchaser is a non-resident;
- 4) the date of purchase; and
- 5) the quantity of black powder transacted.

b) Records of transactions shall be kept in chronological order and maintained for a minimum of one year from the date of the transaction at the storage site.

Section 200.809. Record of Annual Physical Magazine Inventory

a) The holder of a storage certificate shall conduct and make a complete record of the physical inventory of explosive materials annually during the 6 month renewal period. If the inventory is conducted at the time of or prior to the annual inspection provided for in Section 200.206, the record shall be made available to the Department at the annual inspection. If the inventory is conducted after the annual inspection is completed, the holder shall submit a copy to the Department prior to the last day of February.

b) In addition, the holder of a certificate of storage shall conduct and make a complete record of the physical inventory whenever the Department or holder has reason to believe, based on a personal observation, a review of records, or information received from other persons, that explosive materials may be lost or stolen from a magazine. The holder of a certificate of storage shall also conduct and make a complete record of the physical inventory upon the request of the Department, based on the same beliefs. A special inventory conducted and recorded under this subsection satisfies the annual inventory requirement if it is conducted and recorded during the 6 month renewal period.

c) The annual inventory requirements of subsection (a) above shall not apply to a storage certificate holder who is a holder of a license or

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permit issued by BAFI and who satisfies the annual and special inventory requirements prescribed by BAFI, but such compliance will not relieve the holder of a storage certificate from the obligation of conducting special inventories in accordance with subsection (b) above.

Section 200.810. Inspections

Licenses and certificate holders shall make all required records available to authorized representatives of the Department and shall permit their facilities to be inspected at reasonable times and in a reasonable manner by representatives of the Department.

SUBPART J: RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS

Section 200.900. Notice of the Department's Intended Action; Contents and Service

Whenever the Department intends to refuse to issue or renew a license or certificate, to suspend or revoke a license or certificate, or to assess administrative fines against a holder of a license or certificate, the Department shall give written notice to the applicant or holder personally or by certified mail sent to the applicant or holder's last known address. The notice shall include:

- a) The specific grounds upon which the Department's intended action is based.
- b) The action the Department intends to take, including the amount of any fine the Department intends to impose.
- c) A statement that the applicant or holder may request a hearing to appeal the Department's intended action by filing a written request within 15 days after receipt of notice of such action.

d) A statement that the applicant or holder's failure to make a written request for a hearing within 15 days after receipt of the notice of the Department's intended action will constitute a waiver of the applicant or holder's rights to contest such action and will result in the entry of a final administrative decision affirming the relief set forth, which shall be conclusively presumed to be correct.

Section 200.901. Request for Hearing on the Department's Intended Action; Contents and Service

The request for a hearing shall be in writing, shall admit or deny matters alleged by the Department, and may also include any related explanatory

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Information. The request for hearing shall be delivered personally or by mail sent to the Department at the address indicated in the notice.

Section 200.902. Notice of Hearing

Written notice setting forth the date, time, place, nature of the hearing and the name and address of the hearing officer shall be mailed to an applicant or holder making a timely written request for hearing at least 14 days prior to the scheduled hearing date.

Section 200.903. Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

Section 200.904. Hearing Officer; Powers and Duties

- a) The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including the following:
 - 1) To administer oaths and affirmations;
 - 2) To receive relevant evidence;
 - 3) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - 4) To consider and rule upon procedural requests;
 - 5) To hold conferences for the settlement or simplification of the issues; and
 - 6) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify.

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- b) All participants in the hearing shall have the right to be represented by counsel, or by some other authorized representative.

- c) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

Section 200.905. Pre-Hearing Conferences

- a) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:

- 1) Simplify the factual and legal issues presented by the hearing request;
 - 2) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
 - 3) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - 4) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- b) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all of the parties.

Section 200.906. Burden and Standard of Proof

The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

Section 200.907. Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of such party.

Section 200.908. Evidence

- a) Admissibility: A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding Hearing Officer may exclude evidence

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which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer may allow evidence to be received in written form.

- b) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

Section 200.909. Briefs

The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within ten (10) days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

Section 200.910. Hearing Officer's Decision

- a) At the conclusion of all hearings conducted under this Subpart, the Hearing Officer shall issue proposed findings of fact, conclusions of law and a recommended final administrative decision for submittal to the Director.
- b) In issuing his findings, conclusions and recommendation, the Hearing Officer shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. Such findings, conclusions and recommendation may include remedies in addition to or different from those originally sought if they are supported by the evidence.
- c) The provisions of subsection (b) above shall not apply when the findings, conclusions and recommendation are issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.

Section 200.911. Final Administrative Decision

- a) The Director shall issue a final administrative decision within 30 days after receiving the hearing officer's proposed findings of fact,

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conclusions of law and recommended final administrative decision.

- b) In issuing his final administrative decision, the Director shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. Such final administrative decision may include remedies in addition to or different from those originally sought if they are supported by the evidence.

- c) The provisions of subsection (b) above shall not apply when the final administrative decision is issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.

Section 200.912. Administrative Fines

- a) Administrative fines shall only be assessed against license and certificate holders for acts or omissions that constitute violations of the Act and of these rules. Administrative fines shall not be assessed against any applicant or holder of a license or certificate based solely upon a failure to satisfy the requirements for the issuance of a license or storage certificate.

- b) The Department shall determine whether or not to assess administrative fines against license or certificate holders based upon the following factors:

- 1) the license or certificate holder's history of previous violations;
 - 2) the seriousness of the violation;
 - 3) the degree of culpability of the license or certificate holder; and
 - 4) evidence of any additional conditions or factors in aggravation or mitigation of the violation.
- c) All fines assessed by the Department shall be computed as follows:
- 1) Administrative violations, including, but not limited to, the failure to properly keep records, failure to make required inspections, and failure to submit required reports to the Department in a timely fashion shall result in the assessment of a fine of up to \$100 for the first offense, up to \$250 for the second offense and up to \$500 for the third and any subsequent

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offenses. Notwithstanding these limitations, if the violation resulted in a threat of serious and immediate injury to persons or property, and the Department makes a finding to that effect, then the provisions of subsection (c) (3) below shall apply.

- 2) Violations of the requirements for the possession, handling, use, storage, and transfer of explosive materials not involving a threat of serious or immediate injury to persons or property, including, but not limited to, failure to properly maintain and repair magazines and their premises, failure to properly transport explosive materials and failure to take proper security and safety precautions in the handling and storage of explosive materials, shall result in the assessment of a fine of up to \$250 for the first offense, up to \$500 for the second offense, and up to \$1,000 for the third and any subsequent offenses.

- 3) Violations of the requirements for the possession, handling, use, storage and transfer of explosive materials which result in a threat of immediate and serious injury to persons or property shall result in an assessment of a fine of up to \$1,000 for the first offense and up to \$5,000 for the second and any subsequent offense.

- d) For violations described in subsection (c) (3) above, an administrative fine shall not be the exclusive disposition of any disciplinary action for the second and any subsequent violation.

Section 200.913. Immediate Suspension Without Notice of Hearing

- a) Whenever the Department finds, based upon a reasonable belief from on-site observation, record inspection by Department personnel, information received from law enforcement personnel or information received from the public, that a license or certificate holder's violation of the Act or these rules may cause death or serious injury, the Department shall issue an order immediately suspending the license or certificate.

- b) The Department shall serve its order of immediate suspension of a license or certificate under this Section by personal service. Such order shall also be sent by certified mail to the license or certificate holder's last known address.

- c) The Department shall serve with the order of immediate suspension a notice containing the information set forth in Section 200.900(a) through (d) of this Part. The notice will also inform the license or certificate holder that the failure to request a hearing in accordance with Section 200.900(c) of this Part shall result in the

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automatic issuance of a final administrative decision revoking the license or certificate.

- d) Any occurrence of a violation described in Section 200.912(c) (3) of this Part constitutes grounds for the immediate suspension of a license or certificate. A second or subsequent occurrence of a violation described in Section 200.912(c) (3) of this Part requires the Department to immediately suspend a license or certificate.

Section 200.914. Computation of Time

- a) Except as otherwise provided, computation of time under this Subpart is based upon calendar days.

- b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the Department is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

- c) Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation of time when the prescribed time period is 7 days or less.

- d) A business day is any day the Department is open for business.

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Surface Mined Land Conservation and Reclamation Act
- 2) Code Citation: 62 Ill. Adm. Code 300
- 3) Section Number: Proposed Action
300.40 Amendment
- 4) Statutory Authority:
Surface-Mined Land Conservation and Reclamation Act, (Ill. Rev. Stat. 1989, ch. 96 1/2, par. 4501.01 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved:
Amendments to the Surface-Mined Land Conservation and Reclamation Act, effective January 1, 1990, provide that aggregate mining operators may, in order to comply with the Act's bonding requirements, deposit with the Department irrevocable letters of credit in lieu of surety bonds.

Section 300.40 contains the Department's rules specifying the bonding requirements for aggregate mining operations. The proposed amendments to Section 300.40 respond to changes in the Surface-Mined Land Conservation and Reclamation Act, as well as attempt to improve the clarity and organization of the Department's rules.

The proposed amendments include a section defining terms used throughout the Section. The proposed definitions are necessary for clarity of the Department's bonding requirements. Additionally, the proposed amendments set forth requirements applicable to the various securities which are accepted in lieu of surety bonds.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No.
- 7) Does this rulemaking contain an automatic repeal date? Yes X No
If "Yes," please specify the date: _____
- 8) Does this proposed amendment contain incorporations by reference?
No.
- 9) Are there any other proposed amendments pending on this Part?
No.

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- 10) Statement of Statewide Policy Objectives:
The proposed requirements will have no impact on local units of government as specified in Section 4.03 of the Illinois Administrative Procedure Act ("IAPA"). Ill. Rev. Stat. 1989, ch. 127, par. 1004.03.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
Written comments may be submitted within 45 days of the publication of this notice to:

John Lynch, General Counsel
Illinois Department of Mines and Minerals
300 West Jefferson Street, Suite 300
P. O. Box 10137
Springfield, Illinois 62791-0137
- 12) Initial Regulatory Flexibility Analysis:
 - A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: November 14, 1989
 - B) Types of small businesses affected: All aggregate mining operations employing less than fifty people and having less than four million dollars in annual sales.
 - C) Reporting, bookkeeping or other procedures required for compliance:
None

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF MINES AND MINERALSPART 300
SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section	Introduction
300.10	Permits
300.20	Fees
300.30	Bonds
300.40	Permit Application Requirements
300.50	Role of County Government in Reclamation
300.60	Departmental Consideration of Reclamation Plans
300.70	Public Filing of Approved Plans
300.80	Amendments to Permits
300.90	Reclamation Planning
300.100	Criteria for Types of Land Reclamation
300.120	Reclamation of Gob Disposal Areas and Outside Slopes of All
300.130	Overburden Deposition Areas
300.140	Reclamation of Slurry Pond Disposal Areas
300.150	Water Impoundment Structures
300.160	Affected Acreage Map
300.170	Violations and Forfeiture
300.180	Bond Release Procedure
ILLUSTRATION A	Tree Sampling Procedure
ILLUSTRATION B	Typical Sections

AUTHORITY: Implementing and authorized by the Surface-Mined Land Conservation and Reclamation Act (Ill. Rev. Stat. 1988 Supp., ch. 96 1/2, parts, 4501 et seq.).

SOURCE: Adopted January 6, 1976; codified at 8 Ill. Reg. 4507; amended at Ill. Reg. _____, effective _____, 1990

Section 300.40. Bonds

a) Bonds Generally

Bonds or--security shall be in keeping with the Act and this Part. Each application for a permit shall require a separate bond or security. Bonds shall be issued to coincide with the permit period.

b) Bond Calculation

The amount of bond or--security required to be filed with the Department before any surface mining or refuse disposal permit is

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Issued shall be from \$600 to \$5,000 per acre or fractional part thereof, the exact amount to be determined by the Director after considering the various factors relating to the predictable reclamation cost. The Director shall notify the applicant of the amount of the bond or--security which must be filed by the applicant before a permit will be issued.

c) Definitions

1) Bond means surety bond or other security in lieu thereof.

2) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.

3) Other security means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:

A) A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable only to the Department upon demand, or the deposit of cash directly with the Department;

B) Negotiable government securities, endorsed to the order of, and placed in the possession of, the Department;

C) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;

D) Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.

e) d) Bond Requirements

1) Form

Bonds required to be filed with the Department shall be in such form and content as the Director prescribes payable to the "People of the State of Illinois."

2) Conditions Generally

A) Each bond shall conform with the requirements of the Act and this Part and with the declared purpose for which the

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application for a the permit is filed, and shall be in the amounts prescribed by the Act and established by the Director governing such purpose and the proposed area affected. ~~Further each bond shall provide that the bond shall not be cancelled by the surety except after not less than ninety (90) days notice to the Department. Such notice shall be served upon the Department in writing by registered or certified mail to the address set forth in Section 300.20(d) of this Part.~~

- 4+ B) Bonds shall remain in effect until the affected lands have been reclaimed, approved and released by the Department, pursuant to the Act and this Part.

3) Surety Bond Requirements

- A) Bonds shall be signed by the operator as principal, and by a good and sufficient corporate surety, approved by the Director and licensed to do business in Illinois as surety.

- B) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than ninety (90) days notice to the Department. Such notice shall be served upon the Department in writing by registered or certified mail to the following address: set forth in Section 300.20(d) of this Part:

Illinois Department of Mines and Minerals
Land Reclamation Division
300 W. Jefferson, Suite 300
P.O. Box 10197
Springfield, IL 62791-0197

- B+ C) Not less than ten (10) days prior to the expiration of the ninety (90) days notice of cancellation, the operator must deliver to the Department a replacement bond. If such bond is not delivered, all surface mine operations and use of slurry ponds and gob disposal areas by that operator must cease. The replacement bond shall be accompanied by a letter from the bonding company acknowledging the bond is in lieu of a formerly cancelled bond and identifying the dates of the permit period which the bond is to cover.

- 5+ D) ~~Loss of Surety~~ If the license to do business in Illinois of any surety upon a bond filed with the Department shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the Department, shall substitute for any surety a good and sufficient corporate

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surety approved by the Director and licensed to do business in Illinois as a surety. Upon the failure of the operator to make said substitution of surety, the Department shall have the right to suspend the permit of the operator until substitution has been made.

4) Other Securities Requirements

- A) Letters of credit shall be subject to the following conditions:

- i) The letter may only be issued by a bank organized or authorized to do business in the United States ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentation in Illinois.

- ii) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.

- iii) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 300.170 of this Part.

- iv) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

- B) Certificates of deposit shall be subject to the following conditions:

- i) The Department shall require that certificates of

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deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

11) The Department shall not accept an individual certificate of deposit in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

C) Cash accounts shall be subject to the following conditions:

1) The Department may authorize the permittee to supplement the bond through the establishment of a cash account in one or more federally-insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Department.

11) Any interest paid on a cash account shall be retained in the account and applied to the bond value of the account unless the Department has approved the payment of interest to the permittee.

111) The Department shall not accept an individual cash account in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(Source: Amended at Ill. Reg. _____, effective _____, 1990)

POLLUTION CONTROL BOARD
NOTICE OF PROPOSED RULES

1) Heading of the Part: Hazardous Waste Injection Restrictions

2) Code Citation: 35 Ill. Adm. Code 738

3) Section Numbers: Proposed Action:
738.101-738.105 New Sections
738.110-738.114 New Sections
738.120-738.124 New Sections

4) Statutory Authority: 111. Rev. Stat. 1987, ch. 111 1/2, pars. 1013 and 1027.

5) A Complete Description of the Subjects and Issues Involved:

A complete description is contained in the Board's Proposed Opinion of October 5, 1989 in R89-2, which Opinion is available from the address below. Section 13(c) of the Environmental Protection Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 1013(c)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA underground injection control rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period July 1, 1988 through December 30, 1989. Among other things, these amendments impose restrictions and prohibitions relating to the injection of certain hazardous wastes and provide procedures for the approval, review, and termination of exceptions to the general prohibitions.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does this proposed rule contain incorporations by reference?

Yes. The existing rules and proposed amendments incorporate federal technical guidance documents, statutes, and regulations. Copies of these resources are readily available to the regulated community, the incorporations include no later editions or revisions, and a copy of each is maintained in the principal office of the Board, as is indicated in the rules. Section 13 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Therefore, this rulemaking is not subject to JCAR review.

9) Are there any other amendments pending on this Part? No.

POLLUTION CONTROL BOARD
NOTICE OF PROPOSED RULES10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 13(c) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the operation of a Class I or III underground injection well.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R89-2 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: October 10, 1989.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which operate underground injection wells.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer.

The full text of the Proposed Rules begins on the next page:

POLLUTION CONTROL BOARD
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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 738

HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

Section	Purpose Scope and Applicability
738.101	Definitions
738.102	Dilution Prohibited as a Substitute for Treatment
738.103	Case-by-Case Extensions of an Effective Date
738.104	Waste Analysis
738.105	

SUBPART B: PROHIBITIONS ON INJECTION

738.110	Waste Specific Prohibitions - Solvent Wastes
738.111	Waste Specific Prohibitions - Dioxin-containing Wastes
738.112	Waste Specific Prohibitions - California List Wastes
738.114	Waste Specific Prohibitions - First Third Waste

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section	Petitions to Allow Injection of a Prohibited Waste
738.120	Required Information to Support Petitions
738.121	Submission, Review and Approval or Denial of Petitions
738.122	Review of Adjusted Standards
738.123	Termination of Adjusted Standards
738.124	

AUTHORITY: Implementing Section 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1013, 1022.4 and 1027).

SOURCE: Adopted in R89-2 at 13 Ill. Reg. , effective).

SUBPART A: GENERAL

Section 738.101 Purpose Scope and Applicability

a) This Part identifies hazardous wastes that are restricted from disposal into Class I hazardous waste injection wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- b) The requirements of this part apply to owners or operators of Class I hazardous waste injection wells used to inject hazardous waste.
- c) Wastes otherwise prohibited from injection may continue to be injected:

- 1) If an extension from the effective date of a prohibition has been granted pursuant to Section 738.104; or
- 2) If an adjusted standard has been granted in response to a petition filed under Section 738.120; or
- 3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code 721.105.

BOARD NOTE: Derived from 40 CFR 148.1 (1988), as amended at 53 Fed. Reg. 28154, July 26, 1988.

Section 738.102 Definitions

"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 148.2 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.103 Dilution Prohibited as a Substitute for Treatment

The prohibition of 35 Ill. Adm. Code 728.103 shall apply to owners or operators of Class I hazardous waste injection wells.

BOARD NOTE: Derived from 40 CFR 148.3 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.104 Case-by-Case Extensions of an Effective Date

The owner or operator of a Class I hazardous waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B. (See 35 Ill. Adm. Code 728.105.)

BOARD NOTE: Derived from 40 CFR 148.4 (1988), as added at 53 Fed. Reg. 28155,

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Section 738.105 Waste Analysis

Generators of hazardous wastes that are disposed of into Class I injection wells must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(a) and (b). Owners or operators of Class I hazardous waste injection wells must comply with the applicable requirements of 35 Ill. Adm. Code 728.107(c).

BOARD NOTE: Derived from 40 CFR 148.5 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

SUBPART B: PROHIBITIONS ON INJECTION

Section 738.110 Waste Specific Prohibitions - Solvent Wastes

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 as EPA Hazardous Waste Nos. F001, F002, F003, F004, and F005 are prohibited from underground injection unless the solvent waste is a solvent-water mixture or solvent-containing sludge containing less than 1 percent total of the following F001 through F005 solvent constituents:

Acetone
n-Butyl alcohol
Carbon disulfide
Carbon tetrachloride
Chlorobenzene
Cresols and cresylic acid
Cyclohexanone
1,2-Dichlorobenzene
Ethyl acetate
Ethyl benzene
Ethyl ether
Isobutanol
Methanol
Methylene chloride
Methylene chloride (from the pharmaceutical industry)
Methyl ethyl ketone
Methyl isobutyl ketone
Nitrobenzene
Pyridine
Tetrachloroethylene
Toluene
1,1,1-Trichloroethane
1,1,2-Trichloro-1,2,2-trifluoroethane
Trichloroethylene
Trichlorofluoromethane

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Xylene

- b) Effective August 8, 1990, all spent F001 through F005 solvent wastes containing less than 1 percent total F001 through F005 solvent constituents listed in subsection (c)(4) are prohibited from injection.

- c) The requirements of subsections (a) or (b) do not apply:

- 1) If the wastes meet or are treated to meet the standards of 35 Ill. Adm. Code 728.141; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date if an extension has been granted under Section 738.104; or
- 4) During the period the waste has been granted an adjusted treatment standard under 35 Ill. Adm. Code 728.144.

BOARD NOTE: Derived from 40 CFR 148.10 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.111 Waste Specific Prohibitions - Dioxin-Containing Wastes

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 as EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028 are prohibited from underground injection.

- b) The requirements of subsection (a) do not apply:

- 1) If the wastes meet or are treated to meet the standards of 35 Ill. Adm. Code 728.141; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date of an extension has been granted under Section 738.104; or
- 4) During the period the waste has been granted an adjusted treatment standard under 35 Ill. Adm. Code 728.144.

BOARD NOTE: Derived from 40 CFR 148.11 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

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Section 738.112 Waste Specific Prohibitions - California list Wastes

- a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.

- b) Effective August 8, 1990, the following hazardous wastes are prohibited from underground injection:

- 1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1000 mg/l;
- 2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:
 - A) Arsenic or compounds (as As) 500 mg/l;
 - B) Cadmium or compounds (as Cd) 100 mg/l;
 - C) Chromium (VI) or compounds (as Cr VI) 500 mg/l;
 - D) Lead or compounds (as Pb) 500 mg/l;
 - E) Mercury or compounds (as Hg) 20 mg/l;
 - F) Nickel or compounds (as Ni) 134 mg/l;
 - G) Selenium or compounds (as Se) 100 mg/l; and
 - H) Thallium or compounds (as Tl) 130 mg/l;
- 3) Liquid hazardous waste having a pH less than or equal to two (2.0); and
- 4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1000 mg/kg.

- c) The requirements of subsections (a) and (b) do not apply:

- 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728. Subpart D; or

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- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 (1988), as added at 53 Fed. Reg. 30918, August 16, 1988, and amended at 53 Fed. Reg. 41602, October 24, 1988.

Section 738.114 Waste Specific Prohibitions - First Third Wastes

- a) Effective August 8, 1990, the wastes specified in 35 Ill. Adm. Code 721.132 as EPA Hazardous Waste numbers K049, K050, K051, K052, K062, K071 and K104 are prohibited from underground injection.

- b) The requirements of subsection (a) do not apply:

- 1) If the wastes meet or are treated to meet the applicable standards specified in 35 Ill. Adm. Code 728.Subpart D; or
- 2) If an adjusted standard has been granted in response to a petition under Subpart C; or
- 3) During the period of extension of the applicable effective date, if an extension is granted under Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 (1988), as added at 53 Fed. Reg. 30918, August 16, 1988.

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.120 Petitions to allow Injection of a Prohibited Waste

- a) Any person seeking an exemption from a prohibition under Subpart B for the injection of a restricted hazardous waste into an injection well or wells shall submit a petition for an adjusted standard to the Board, pursuant to 35 Ill. Adm. Code 106.Subpart G, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing that:
 - 1) The hydrogeological and geochemical conditions at the site(s) and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that:

A) Fluid movement conditions are such that the injected fluids

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will not migrate within 10,000 years:

- i) Vertically upward out of the injection zone; or
- ii) Laterally within the injection zone to a point of discharge or interface with an Underground Source of Drinking Water (USDW) as defined in 35 Ill. Adm. Code 730; or

- B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with USDW, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions or other means; and

- 2) For each well the petition has:

- A) Demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;

- B) Located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;

- C) Submitted a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which shall become a condition of any adjusted standard granted; and

- D) Submitted the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection 738.120(a)(2) need not be incorporated in a permit at the time the Board grants an adjusted standard.

- b) A demonstration under Subsection 738.120(a)(1)(A) must identify the

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strata within the injection zone which will confine fluid movement above the injection interval and include a showing that this strata is free of known transmissive faults of fractures and that there is a confining zone above the injection zone.

- c) A demonstration under Subsection 738.120(a)(1)(B) must identify the strata within the injection zone where waste transformation will be accomplished and include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.

- d) A demonstration may include a showing that:

- 1) Treatment methods that reduce the toxicity or mobility of the wastes, the implementation of which will become a condition of any adjusted standard, must be utilized; or
- 2) A monitoring plan, the implementation of which will become a condition of any adjusted standard, must be utilized to enhance confidence in one or more aspects of the demonstration.

- e) Any person who has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions placed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b) and (c).

- f) Any person who has been granted an adjusted standard pursuant to this section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board may grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 (1988), as added at 53 Fed. Reg. 28155, July 26, 1988.

Section 738.121 Required Information to Support Petitions

- a) Information submitted in support of a Section 738.120 petition must meet the following criteria:

- 1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;

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- 2) A) All estimation and monitoring techniques must be approved by the Board; and

B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;

- 3) Predictive models must have been verified and validated, must be appropriate for the specific site, wastestreams, and injection conditions of the operation, and must be calibrated for existing sites where sufficient data are available;

- 4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;

- 5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and

- 6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner shall conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.

- b) Any petitioner under Section 738.120(a)(1)(A) shall provide sufficient site-specific information to support the demonstration, such as:

- 1) Thickness, porosity, permeability and extent of the various strata in the injection zone;
- 2) Thickness, porosity, permeability, extent and continuity of the confining zone;
- 3) Hydraulic gradient in the injection zone;
- 4) Hydrostatic pressure in the injection zone; and
- 5) Geochemical conditions of the site.

- c) In addition to the information in subsection 738.121(b), any petitioner under Section 738.120(a)(1)(B) of this Part shall provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner shall

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provide the information necessary to support the demonstration, such as:

- 1) Description of the chemical processes or other means that will lead to waste transformation; and
- 2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 (1988), as added at 53 Fed. Reg. 28156, July 26, 1988.

Section 738.122 Submission, Review and Approval or Denial of Petitions

- a) Any petition submitted to the Board, pursuant to Section 738.120(a) of this Part, must include:

- 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
- 2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;
- 3) Such additional information as the Board requires to support the petition under Section 738.120 and Section 738.121 of this Part; and
- 4) This statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in 35 Ill. Adm. Code 106. Subpart G.

- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified

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or reissued pursuant to Section 738.120(e) or (f)).

- d) Upon request by any petitioner who obtains an adjusted standard for a well under this Subpart, the Agency shall initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed ten years.

- e) Each adjusted standard granted under this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 (1988), as added at 53 Fed. Reg. 28156, July 26, 1988.

Section 738.123 Review of Adjusted Standards

- a) 1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency shall review any adjusted standard(s) granted by the Board pursuant to this Subpart.
- 2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency shall request in writing that the permittee submit a petition to the Board to modify the adjusted standard.

- 3) All petitions requested by the Agency pursuant to subsection (a)(2) must be filed pursuant to section 738.120(f). Such a petition may seek reaffirmation of the adjusted standard without modification.

- 4) A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2), the Agency may petition the Board for reconsideration of any adjusted standard granted under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.300 and 101.301 notwithstanding.

- B) i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same extent that it would review a new petition for an adjusted standard.

- ii) The Board may treat a motion for reconsideration of an

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adjusted standard as a new petition under Section 738.120 and require that the full requirements of that section and of 35 Ill. Adm. Code 106. Subpart G apply to the proceeding, with the Agency acting as the petitioner.

- b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 (1988), as added at 53 Fed. Reg. 28157, July 26, 1988.

Section 738.124 Termination of Adjusted Standards

- a) 1) A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of the Illinois Environmental Protection Act, 111. Rev. Stat. ch. 111 1/2, par. 1033, for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.

B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.300 and 101.301 notwithstanding.

- 2) In any action under subsection (a)(1), if the Board finds a violation of the Act or Board regulations, the Board may terminate any adjusted standard granted under Section 738.120 for any of the following causes:

A) Noncompliance by the owner or operator with any condition of the adjusted standard;

B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

C) A determination that new information shows that the basis for approval of the petition is no longer valid.

- b) In any action under subsection (a)(1), the Board will terminate an adjusted standard granted under Section 738.120 for the following cases:

- 1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially,

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relevant to the Board's decision on the petition;

- 2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where:

A) The migration resulted from a mechanical failure of the well that can be corrected promptly through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and

B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 (1988), as added at 53 Fed. Reg. 28157, July 26, 1988.

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: UIC Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 704
- 3) Section Numbers: Proposed Action:

704.161 Amendments
704.181 Amendments
704.260-704.264 New Sections

- 4) Statutory Authority: 111. Rev. Stat. 1987, ch. 111 1/2, pars. 1013 and 1027.

- 5) A Complete Description of the Subjects and Issues Involved:

A complete description is contained in the Board's Proposed Opinion of October 5, 1989 in R89-2, which Opinion is available from the address below. Section 13(c) of the Environmental Protection Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 1013(c)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAB.

This rulemaking updates the Board's RCRA underground injection control rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period July 1, 1988 through December 30, 1989. Among other things, the amendments add a provision that certain RCRA permits may constitute a permit for UIC purposes. They add permit transfer and modification provisions moved from 35 Ill. Adm. Code 702.182 through 702.185 and 702.187.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? No.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 13(c) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the operation of a Class I or III underground injection well.

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- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R89-2 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

- 12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: October 10, 1989.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which operate underground injection wells.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 704
UIC PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

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704.101 Content
704.102 Scope of the Permit or Rule Requirement
704.103 Identification of Aquifers
704.104 Exempted Aquifers
704.105 Specific Inclusions and Exclusions
704.106 Classification of Injection Wells
704.107 Definitions

SUBPART B: PROHIBITIONS

Section
704.121 Prohibition of Unauthorized Injection
704.122 Prohibition of Movement of Fluid into USDW
704.123 Identification of USDW and Exempted Aquifers
704.124 Prohibition of Class IV Wells

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section
704.141 Existing Class I and III Wells
704.142 Existing Class IV Wells, not into USDW (Renumbered)
704.143 Expiration of Authorization
704.144 Requirements
704.145 Existing Class IV Wells
704.146 Class V Wells
704.147 Requiring a Permit
704.148 Inventory Requirements
704.149 Requiring other Information
704.150 Requirements for Class I and III Wells authorized by Rule
704.151 RCRA Interim Status for Class I Wells

SUBPART D: APPLICATION FOR PERMIT

Section
704.161 Application for Permit; Authorization by Permit
704.162 Area Permits
704.163 Emergency Permits
704.164 Signatories to Permit Applications

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SUBPART E: PERMIT CONDITIONS

Section
704.181 Additional Conditions
704.182 Establishing UIC Permit Conditions
704.183 Construction Requirements
704.184 Corrective Action
704.185 Operation Requirements
704.186 Hazardous Waste Requirements
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704.188 Plugging and Abandonment
704.189 Financial Responsibility
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704.193 Corrective Action

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

Section
704.201 Applicability
704.202 Authorization
704.203 Requirements

SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I
HAZARDOUS WASTE INJECTION WELLS

Section
704.210 Applicability
704.211 Definitions
704.212 Cost Estimate for Plugging and Abandonment
704.213 Financial Assurance for Plugging and Abandonment
704.214 Trust Fund
704.215 Surety Bond Guaranteeing Payment
704.216 Surety Bond Guaranteeing Performance
704.217 Letter of Credit
704.218 Plugging and Abandonment Insurance
704.219 Financial Test and Corporate Guarantee
704.220 Multiple Financial Mechanisms.
704.221 Financial Mechanism for Multiple Facilities
704.222 Release of the Owner or Operator
704.230 Incapacity
704.240 Wording of the Instruments

SUBPART H: ISSUED PERMITS

Section
704.260 Transfer

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704.261 Modification
704.262 Causes for Modification
704.263 Well Siting
704.264 Minor Modifications

AUTHORITY: Implementing Sections 13 and 22-4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1987, ch. 111 1/2, pars. 1013, 1022.4 and 1027, as amended by P.A. 85-1048, effective January 1, 1989).

SOURCE: Adopted in R81-32, at 47 PCB 95, at 6 111. Reg. 12479, effective as noted in 35 111. Adm. Code 700.106; amended in R82-19, at 7 111. Reg. 14402, effective as noted in 35 111. Adm. Code 700.106; amended in R83-39, at 55 PCB 319, at 7 111. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 111. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 111. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 111. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 111. Reg. 478, effective December 30, 1988; amended in R89-2 at 111. Reg.

SUBPART D: APPLICATION FOR PERMIT

Section 704.161 Application for Permit; Authorization by Permit

- a) Permit application. Except for owners or operators authorized by rule, all underground injections are prohibited unless authorized by permit. Persons currently authorized by rule must still apply for a permit as specified in subsection (b) unless the authorization was for a Class V well under Section 704.146. Rules authorizing well injections for which permit applications have been submitted shall lapse for a particular well injection or project upon the effective date of the permit or permit denial for that well injection or project. Procedures for application issuance and administration of emergency permits are found exclusively in Section 704.163. A RCRA permit applying the standards of 35 111. Adm. Code 724.Subpart X will constitute a UIC permit for hazardous waste injection wells for which the technical standards in 35 111. Adm. Code 724 are not generally appropriate.

BOARD NOTE: Derived from 40 CFR 144.31(a) (1987) (1988), as amended at 52 Fed. Reg. 46963, December 10, 1987.

- b) Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Agency as follows:

- 1) For existing wells:

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- A) Within 180 days after the Agency notifies such person that an application is required; or
- B) If the waste being injected into the well is a hazardous waste accompanied by a manifest or delivery document, by August 1, 1984; or
- C) Except as otherwise provided in subsections (b)(1)(A) and (b)(1)(B), by February 1, 1986.

- 2) For new injection wells, except new wells in projects authorized under Section 704.141 or covered by an existing area permit under Section 704.162(c), a reasonable time before construction is expected to begin.

BOARD NOTE: Derived from 40 CFR 144.31(c) (1987) (1988).

- c) Contents of UIC application. The applicant shall demonstrate that the underground injection will not endanger drinking water sources. The form and content of the UIC permit application may be prescribed by the Agency including the materials required by 35 111. Adm. Code 702.123.

- d) Information requirements for Class I hazardous waste injection wells.

- 1) The following information is required for each active Class I hazardous waste injection well at a facility seeking a UIC permit:
- A) Dates well was operated.
- B) Specification of all wastes which have been injected into the well, if available.
- 2) The owner or operator of any facility containing one or more active hazardous waste injection wells must submit all available information pertaining to any release of hazardous waste or constituents from any active hazardous waste injection well at the facility.
- 3) The owner or operator of any facility containing one or more active Class I hazardous waste injection wells must conduct such preliminary site investigations as are necessary to determine whether a release is occurring, has occurred or is likely to have occurred.

BOARD NOTE: Derived from 40 CFR 144.31(g) (1987) (1988).

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- e) In addition to the materials required by 35 Ill. Adm. Code 702.123, the applicant shall identify and submit on a list with the permit application the names and addresses for all owners of record of land within one-quarter mile (401 meters) of the facility boundary. This requirement may be waived by the Agency where the site is located in a populous area such that the requirement would be impracticable.

BOARD NOTE: Derived from 40 CFR 144.31(e)(9) (4987) (1988).

(Source: Amended at 13 Ill. Reg. _____, effective _____)

SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

The following conditions in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152 apply to all UIC permits and shall be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

- a) In addition to 35 Ill. Adm. Code 702.141 (duty to comply): the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section 704.163.

BOARD NOTE: Derived from 40 CFR 144.51(a) (4987) (1988).

- b) In addition to 35 Ill. Adm. Code 702.150(b) (monitoring and records): the permittee shall retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188 or under 35 Ill. Adm. Code 730.Subpart G, as appropriate. The owner or operator shall continue to retain the records after the three year retention period unless the owner or operator delivers the records to the Agency or obtains written approval from the Agency to discard the records.

BOARD NOTE: Derived from 40 CFR 144.51(j)(2)(ii) (1988), as amended at 53 Fed. Reg. 28147, July 26, 1988.

- c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes): except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and

- 1) The permittee has submitted notice of completion of construction

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to the Agency; and

2) Inspection Review

- A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

- B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c)(1), in which case prior inspection or review is waived and the permittee may commence injection. The Agency shall include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: Derived from 40 CFR 144.51(m) (4987) (1988).

d) Reporting Noncompliance

- 1) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment, including:

- A) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW.

- B) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.

- 2) Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: Derived from 40 CFR 144.51(i)(6) (4987) (1988).

- e) The permittee shall notify the Agency at such times as the permit requires before conversion or abandonment of the well or, in the case of area permits, before closure of the project.

BOARD NOTE: Derived from 40 CFR 144.51(n) (4987) (1988).

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f) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator shall submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report shall be submitted within 60 days. The report shall be certified as accurate by the person who performed the plugging operation. Such report shall consist of either:

1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency;

2) Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Agency specifying the differences.

BOARD NOTE: Derived from 40 CFR 144.51(o) (4987) (1988).

g) Mechanical integrity demonstration. The Agency by written notice may require the owner or operator to comply with a schedule describing when mechanical integrity demonstrations must be made.

BOARD NOTE: Derived from 40 CFR 144.51(p) (4987) (1988).

(Source: Amended at 13 Ill. Reg. , effective)

Section 704.260TransferSUBPART H: ISSUED PERMITS

a) Transfer by modification. Except as provided in subsection (b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified (under Sections 704.161 through 704.164) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act. The new owner or operator to whom the permit is transferred shall comply with all the terms and conditions specified in such permit.

b) Automatic transfers. As an alternative to transfers under subsection (a), any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if:

1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in subsection (b)(2):

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2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of Section 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under subsection (b); and

3)

The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify the permit. A modification under this subsection may also be a minor modification under Section 704.264. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b)(2).

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.182. Derived from 40 CFR 144.39 (1988).

(Source: Added in R89-2 at 13 Ill. Reg. , effective)

Section 704.261Modification

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (See 35 Ill. Adm. Code 702.140 through 702.152), receives a request for modification or conducts a review of the permit file), it may determine whether or not one or more of the causes listed in Sections 704.262 and 704.263 for modification exist. If cause exists, the Agency may modify the permit accordingly, subject to the limitations of Sec. 704.263 and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If cause does not exist under Sections 704.261 through 704.264, the Agency shall not modify the permit. If a permit modification satisfies the criteria in Sec. 704.264 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.183. Derived from 40 CFR 122.15.

(Source: Added in R89-2 at 13 Ill. Reg. , effective)

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Section 704.262

Causes for Modification

a)

The following are causes for modification of permits. For Class I hazardous waste injection wells or Class III wells, the following may be causes for reissuance and modification. For all other wells the following may be cause for reissuance as well as modification when the permittee requests or agrees:

1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2) Information. Permits other than for UIC Class III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance or test methods) and would have justified the application of different permit conditions at the time of issuance. For UIC area permits this cause shall include any information indicating that cumulative effects on the environment are unacceptable.

3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits other than for UIC Class I hazardous wells or Class III wells may be modified during their terms for this cause only as follows:

A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.

B) The permittee may request modification when:

1) The permit condition requested to be modified was based on a promulgated 35 Ill. Adm. Code 730 regulation; and

11) The Board has revised, withdrawn or

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modified that portion of the regulation on which the permit condition was based; and

11) A permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days after Illinois Register notice of the rulemaking on which the request is based.

C) For judicial decisions, a court of competent jurisdiction has remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days of judicial remand.

4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

b) The following are causes to modify or, alternatively, reissue a permit:

1) The Agency has received notification (as required in the permit, see Section 702.152(C)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Section 702.182(b)), but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

2) A determination that the waste being injected is a hazardous waste as defined in 35 Ill. Adm. Code 721.103 either because the definition has been revised, or because a previous determination has been changed.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.184. Derived from 40 CFR 144.39, as amended at 53 Fed. Reg. 28147, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

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Section 704.263 Well Siting

Suitability of the well location will not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance or unless certain modifications may require site location suitability approval pursuant to Section 39.2 of the Environmental Protection Act.

BOARD NOTE: Formerly codified as 35 Ill. Adm. Code 702.185. Derived from 40 CFR 144.39 (1988).

(Source: Added at 13 Ill. Reg. , effective)

Section 704.264 Minor Modifications

Upon the consent of the permittee, the Agency may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of 35 Ill. Adm. Code 705. Any permit modification not processed as a minor modification under this Section must be made for cause and with a 35 Ill. Adm. Code 705 draft permit and public notice as required in Sections 704.261 through 704.263. Minor modifications may only:

- a) Correct typographical errors;
- b) Require more frequent monitoring or reporting by the permittee;

c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

d) Allow for a change in ownership or operational control of a facility where the Agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Agency.

e) Limited Changes:

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1)

Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Agency, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

2)

Change construction requirements approved by the Agency pursuant to 35 Ill. Adm. Code 704.182 (establishing UIC permit conditions), provided that any such alteration shall comply with the requirements of this Part and 35 Ill. Adm. Code 704 and 730.

3)

Amend a plugging and abandonment plan which has been updated under 35 Ill. Adm. Code 704.181(e).

BOARD NOTE: Derived from 40 CFR 144.41 (1988)

(Source: Added at 13 Ill. Reg. , effective)

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1) Heading of the Part: Underground Injection Control Operating Requirements

2) Code Citation: 35 Ill. Adm. Code 730

3) Section Numbers: Proposed Action:

730.101 Amendment
730.103 Amendment
730.111 Amendment
730.113 Amendment
730.161-730.173 New Sections

4) Statutory Authority: 111. Rev. Stat. 1987, ch. 111 1/2, pars. 1013 and 1027.

5) A Complete Description of the Subjects and Issues Involved:

A complete description is contained in the Board's Proposed Opinion of October 5, 1989 in R89-2, which Opinion is available from the address below. Section 13(c) of the Environmental Protection Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 1013(c)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA underground injection control rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period July 1, 1988 through December 30, 1989. Among other things, the amendments add the actual effective dates in place of the existing references to an effectiveness upon federal approval of the state's UIC program. They amend incorporations by reference. The amendments render the existing requirements applicable only to non-hazardous wells and add new requirements that apply to hazardous wells. These new requirements include siting, review, corrective action, construction, monitoring, reporting, operating, closure, post-closure care, and financial responsibility requirements.

6) Will this proposed rule replace an emergency rule currently in effect?
No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Do these proposed amendments contain incorporations by reference?

Yes. The existing rules and proposed amendments incorporate federal technical guidance documents, statutes, and regulations. Copies of these resources are readily available to the regulated community, the incorporations include no later editions or revisions, and a copy of each

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is maintained in the principal office of the Board, as is indicated in the rules. Section 13 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Therefore, this rulemaking is not subject to JCAR review.

9) Are there any other amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 13(c) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the operation of a Class I or III underground injection well.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R89-2 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: October 10, 1989.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which operate underground injection wells.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant,

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chemist and registered professional engineer.

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 730

UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

SUBPART A: GENERAL

Section
730.101 Applicability, Scope and Effective Date
730.102 Laws Authorizing Regulations
730.103 Definitions
730.104 Criteria for Exempted Aquifers
730.105 Classification of Injection Wells
730.106 Area of Review
730.107 Corrective Action
730.108 Mechanical Integrity
730.109 Criteria for Establishing Permitting Priorities
730.110 Plugging and Abandoning Class I and III Wells

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO CLASS I NON-HAZARDOUS WELLS

Section
730.111 Applicability
730.112 Construction Requirements
730.113 Operating, Monitoring and Reporting Requirements
730.114 Information to be Considered by Agency

SUBPART C: CRITERIA AND STANDARDS APPLICABLE TO CLASS II WELLS

Section
730.121 Adoption of Criteria and Standards Applicable to Class II Wells by the Illinois Department of Mines and Minerals

SUBPART D: CRITERIA AND STANDARDS APPLICABLE TO CLASS III WELLS

Section
730.131 Applicability
730.132 Construction Requirements
730.133 Operating, Monitoring and Reporting Requirements
730.134 Information to be Considered by the Agency

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SUBPART F: CRITERIA AND STANDARDS APPLICABLE
TO CLASS V INJECTION WELLS

Section
730.151 Applicability
730.152 Inventory and Assessment

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO CLASS I
HAZARDOUS WELLS

Section
730.161 Applicability and Definitions
730.162 Minimum Criteria for Siting
730.163 Area of Review
730.164 Corrective Action for Wells in the Area of Review
730.165 Construction Requirements
730.166 Logging, Sampling and Testing Prior to New Well Operation
730.167 Operating Requirements
730.168 Testing and Monitoring Requirements
730.169 Reporting Requirements
730.170 Information to be Evaluated
730.171 Closure
730.172 Post-Closure Care
730.173 Financial Responsibility for Post-Closure Care

AUTHORITY: Implementing Sections 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1987 ch. 111 1/2, pars. 1013, 1022.4 and 1027, as amended by P.A. 85-1048, effective January 1, 1989).

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 111. Reg. 12,479, effective as, noted in 35 111. Adm. Code 700.106; amended in R82-19, 53 PCB 131 at 7 111. Reg. 14426 effective as noted in 35 111. Adm. Code 700.106; recodified at 10 111. Reg. 14174; amended in R89-2 at 13 111. Reg.

SUBPART A: GENERAL

Section 730.101 Applicability, Scope and Effective Date

a) This part sets forth technical criteria and standards for the Underground Injection Control (UIC) Program. This part should be read in conjunction with 35 111. Adm. Code 702, 704 and 705 which also apply to the UIC program. 35 111. Adm. Code 702 and 704 prescribe the regulatory requirements for the UIC permit program. 35 111. Adm. Code 705 describes the procedures the Illinois Environmental Protection Agency (Agency) will use for issuing UIC permits.

b) On and after the date of approval by the United States Environmental

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Protection Agency (USEPA) of the Illinois UIC program February 1, 1984, any underground injection which is not authorized by rule or by permit is unlawful.

(Source: Amended at 13 111. Reg. , effective)

Section 730.103 Definitions

The following definitions apply to the underground injection control program.

"Abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, (P.L. 94-580, as amended by Pub. L. 95-609, as amended, 42 U.S.C. 6901.)

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit, including any additions, revisions or modifications to the forms. For RCRA, application also includes the information required by the Agency under 35 111. Adm. Code 703.182 et seq. (contents of Part B of the RCRA application).

"Aquifer" means a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" means the area surrounding an "injection well" described according to the criteria set forth in Section 730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (1/4 of a mile) or a number calculated according to the criteria set forth in Section 730.106.

"Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water gas or other fluid from entering or leaving the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

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"Cementing" means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Conventional mine" means an open pit or underground excavation for the production of minerals.

"Confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

"Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

"Date of approval by USEPA of the Illinois UIC program" means the date on which "USEPA" delegates primary for the "UIC" program for Class I, II, IV and V wells to the State of Illinois pursuant to Section 1422 of the "SDWA" and 40 CFR 142.2 February 1, 1984.

"Director" means the Director of the Illinois Environmental Protection Agency or his/her Administrator's designee.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

"Effective date of the UIC program" means the "date of approval by USEPA of the Illinois UIC program," February 1, 1984.

"Environmental Protection Act" means the Environmental Protection Act (Ill. Rev. Stat. 1981-1988 ch. III 1/2, par. 1001), as amended.

"EPA" means the United States Environmental Protection Agency.

"Exempted aquifer" means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures of 35 Ill. Adm. Code 704.123, 704.104 and 702.105.

"Existing injection well" means an "injection well" other than a "new injection well."

"Experimental technology" means a technology which has not been proven feasible under the conditions in which it is being tested.

"Facility or activity" means any "HWM facility," "UIC injection well" or any other facility or activity (including land or appurtenances

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thereto) that is subject to regulation under the "State" RCRA or UIC program.

"Fault" means a surface or zone of rock fracture along which there has been displacement.

"Flow rate" means the volume per unit time of the flow of a gas or other fluid substance which emerges from an orifice, pump or turbine or which passes along a conduit or channel.

"Fluid" means material or substance which flows or moves whether in a semisolid, liquid sludge, gas or any other form or state.

"Formation" means a body of rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as drilling mud.

"Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous Waste Management facility" ("HWM facility") means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (for example, one or more landfills, surface impoundments or combination of them).

"HWM facility" means "Hazardous Waste Management facility."

"Illinois" means the State of Illinois.

"Injection well" means a "well" into which "fluids" are being injected.

"Injection zone" means a geological "formation," group of formations or part of a formation receiving fluids through a well.

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"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the RCRA, UIC, Environmental Protection Act or 404 programs.

"Packer" means a device lowered into a well which can be expanded to produce a fluid-tight seal.

"Permit" means an authorization, license or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status, (35 Ill. Adm. Code 703, Subpart C), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit which has not yet been the subject of final Agency action, such as a "draft permit" or a "proposed permit."

"Plugging" means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness and location of plugging structures.

"Pressure" means the total load or force per unit area acting on a surface.

"Project" means a group of wells in a single operation.

"Radioactive Waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR 20, Appendix B, Table II, Column 2, incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, 42 U.S.C. 6901-6901-7) "Act".

"SDWA" means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-190, 42 U.S.C. 300(f)).

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in

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connection with the facility or activity.

"Sole or principal source aquifer" means an aquifer which has been designated by the Administrator pursuant to Sections 1424(a) or (3) of the SDWA.

"State" means the State of Illinois.

"Stratum" (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

"Surface casing" means the first string of well casing to be installed in the well.

"Total dissolved solids" ("TDS") means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 720.111.

"UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including the approved Illinois program.

"Underground injection" means a "well injection."

"Underground source of drinking water" ("USDW") means an "aquifer" or its portion:

Which supplies any public water system; or

Which contains a sufficient quantity of groundwater to supply a public water system; and

Currently supplies drinking water for human consumption; or

Contains less than 10,000 mg/l total dissolved solids; and

Which is not an exempted "aquifer".

"USDW" means "underground source of drinking water."

"Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

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"Well injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well stimulation" means several processes used to clean the well bore, enlarge channels and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing and hydraulic fracturing.

"Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

BOARD NOTE: Derived from 40 CFR 146.3 (1988).

(Source: Amended at 13 Ill. Reg. , effective)

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO
CLASS I NON-HAZARDOUS WELLS

Section 730.111 Applicability

This Subpart establishes criteria and standards for underground injection control programs to regulate Class I non-hazardous wells.

BOARD NOTE: Derived from 40 CFR 146.11 (1988), as amended at 53 Fed. Reg. 28148, July 26, 1988.

(Source: Amended at 13 Ill. Reg. , effective)

Section 730.113 Operating, Monitoring and Reporting
Requirements

a) Operating Requirements. Operating requirements shall, at a minimum, specify that:

- 1) Except during stimulation, injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water.

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- 2) Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

- 3) Unless an alternative to a packer has been approved under Section 730.112(c), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Agency permit condition, and a pressure also approved by the Agency, prescribed by permit condition shall be maintained on the annulus.

b) Monitoring Requirements. Monitoring requirements shall, at a minimum, include:

- 1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
- 2) Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;
- 3) A demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well; and
- 4) The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured and the frequency of monitoring.

c) Reporting Requirements. Reporting requirements shall, at a minimum, include:

- 1) Quarterly reports to the Agency on:
 - A) The physical, chemical and other relevant characteristics of injection fluids;
 - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and
 - C) The results of monitoring prescribed under subsection (b)(4).
- 2) Reporting the results, with the first quarterly report after the completion of:
 - A) Periodic tests of mechanical integrity;
 - B) Any other test of the injection well conducted by the

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permittee if required by the Agency permit condition; and

c) Any well work over.

d) Ambient monitoring.

1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Agency shall require the owner or operator to develop a monitoring program. At a minimum, the Agency shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

2) When prescribing a monitoring system the Agency may also require:

A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator shall, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;

B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition or to provide other site-specific data;

C) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;

D) Periodic monitoring of the ground water quality in the lowermost USDW; and

E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.13 (1988), as amended at 53 Fed. Reg. 28148, July 26, 1988.

(Source: Amended at 13 Ill. Reg. , effective)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO CLASS I

HAZARDOUS WELLS

Section 730.161 Applicability and Definitions

a) This Subpart establishes criteria and standards for underground

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injection control programs to regulate Class I hazardous waste injection wells. Unless otherwise noted, this Subpart supplements the requirements of Subpart A and applies instead of Subpart B to Class I hazardous waste injection wells.

b) Definitions

"Cone of influence" means that area around the well within which increased injection zone pressures caused by injection into the hazardous waste injection well would be sufficient to drive fluids into a USDW.

"Existing well" means a Class I well which had a UIC permit or UIC permit by rule prior to August 25, 1988 or a well which has become a Class I well as a result of a change in the definition of the injected waste which would render the waste hazardous under 35 Ill. Adm. Code 721.103.

"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"New well" means any Class I hazardous waste injection well which is not an existing well.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 146.61, as added at 53 Fed. Reg. 28148, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.162 Minimum Criteria for Siting

a) All Class I hazardous waste injection wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 402 meters (1/4 mile) of the well bore, a USDW.

b) The siting of Class I hazardous waste injection wells shall be limited to areas that are geologically suitable. The Agency shall determine geologic suitability based upon:

1) An analysis of the structural and stratigraphic geology, the hydrogeology and the seismicity of the region;

2) An analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding

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stratigraphy, structure and rock properties, aquifer hydrodynamics and mineral resources; and

- 3) A determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted through the use of models.

c) Class I hazardous waste injection wells shall be sited such that:

- 1) The injection zone has sufficient permeability, porosity, thickness and area extent to prevent migration of fluids into USDWs; and
- 2) The confining zone:
 - A) Is laterally continuous and free of transecting, transmissive faults or fractures over an area sufficient to prevent the movement of fluids into a USDW; and
 - B) Contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures.

d) The owner or operator shall demonstrate to the Agency that:

- 1) The confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault; or
- 2) Within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW, considering density effects, injection pressures and any significant pumping in the overlying USDW; or
- 3) There is no USDW present.
- 4) The owner or operator of a site which does not meet the requirements in subsection (d)(1), (d)(2), or (d)(3) may petition the Board for an adjusted standard pursuant to 35 Ill. Adm. Code 106. Subpart G. The Board may grant an adjusted standard approving such a site if it determines that because of site geology, nature of the wastes involved, or other considerations, abandoned boreholes or other conduits would not cause an endangerment of USDWs. A petition for an adjusted standard under this subsection must include the following components:

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- A) Those portions of a permit application for the particular injection activities and site which are relevant to the Board's determination; and

- B) Such other relevant information that the Board may by order require pursuant to 35 Ill. Adm. Code 106.705(1).

BOARD NOTE: Derived from 40 CFR 146.62, as added at 53 Fed. Reg. 28148, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)
Section 730.163 Area of Review

For the purposes of Class I hazardous waste injection wells, this Section applies instead of Section 730.106. The area of review for Class I hazardous waste wells shall be a 2-mile radius around the well bore. The Agency may specify by permit condition a larger area of review in the UIC permit based on the calculated cone of influence of the well.

BOARD NOTE: Derived from 40 CFR 146.63, added at 53 Fed. Reg. 28148, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.164 Corrective Action for Wells in the Area of Review

For the purposes of Class I hazardous waste injection wells, this Section applies instead of 35 Ill. Adm. Code 704.193 and Section 730.107.

- a) The owner or operator of a Class I hazardous waste well shall, as part of the permit application, submit a plan to the Agency outlining the protocol used to:

- 1) Identify all wells penetrating the confining zone or injection zone within the area of review; and
 - 2) Determine whether wells are adequately completed or plugged.
- b) The owner or operator of a Class I hazardous waste well shall identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and shall submit as required in Section 730.170(a):
 - 1) A tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and
 - 2) A description of each well or type of well and any records of

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c) For wells that the Agency determines are improperly plugged, completed or abandoned, or for which plugging or completion information is unavailable, the applicant shall also submit a plan consisting of such steps or modification as are necessary to prevent movement of fluids into or between USDWs. Where the plan is adequate, the Agency shall incorporate it into the permit as a condition. Where the Agency's review of an application indicates the permittee's plan is inadequate (based at a minimum on the factors in subsection (e)), the Agency shall:

- 1) Require the applicant to revise the plan;
 - 2) Prescribe a plan for corrective action as a condition of the permit; or
 - 3) Deny the application
- d) Requirements:

1) Existing injection wells. Any permit issued for an existing Class I hazardous waste injection well requiring corrective action other than pressure limitations must include a compliance schedule under 35 Ill. Adm. Code 702.162 requiring any corrective action accepted or prescribed under subsection (c). Any such compliance schedule must provide for compliance no later than 2 years following issuance of the permit and must require observance of appropriate pressure limitations under subsection (d)(3) until all other corrective action measures have been implemented.

2) New injection wells. No owner or operator of a new Class I hazardous waste injection well may begin injection until all corrective actions required under this Section have been taken.

3) The Agency may require pressure limitations instead of plugging. If pressure limitations are used instead of plugging, the Agency shall require as a permit condition that injection pressure be limited so that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into or between USDWs. This pressure limitation shall satisfy the corrective action requirements. Alternatively, such injection pressure limitation may be made part of a compliance schedule under 35 Ill. Adm. Code 702.162 and may be required to be maintained until all other required corrective actions have been implemented.

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e) The Agency shall consider the following criteria and factors in determining the adequacy of corrective action proposed by the applicant under subsection (c) and in determining the additional steps needed to prevent fluid movement into and between USDWs:

- 1) Nature and volume of injected fluid;
- 2) Nature of native fluids or byproducts of injection;
- 3) Geology;
- 4) Hydrology;
- 5) History of the injection operation;
- 6) Completion and plugging records;
- 7) Closure procedures in effect at the time the well was closed;
- 8) Hydraulic connections with USDWs;
- 9) Reliability of the procedures used to identify abandoned wells; and
- 10) Any other factors which might affect the movement of fluids into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.64, as added at 53 Fed. Reg. 28149, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.165 Construction Requirements

a) General. All existing and new Class I hazardous waste injection wells shall be constructed and completed to:

- 1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;
- 2) Permit the use of appropriate testing devices and workover tools; and
- 3) Permit continuous monitoring of injection tubing and long string casing as required pursuant to Section 730.167(f);

b) Compatibility. All well materials must be compatible with fluids with which the materials may be expected to come into contact. The owner or operator shall employ any compatibility testing method

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specified by permit condition. The owner or operator may otherwise refer to "Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," EPA 570/9-87-002, incorporated by reference at 35 Ill. Adm. Code 720.111.

c) Casing and Cementing New Wells.

- 1) Casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well, including the post-closure care period. The casing and cementing program shall be designed to prevent the movement of fluids into or between USDWs, and to prevent potential leaks of fluids from the well. The Agency shall consider the following information as required by Section 730.170 in determining and specifying casing and cementing requirements:
 - A) Depth to the injection zone;
 - B) Injection pressure, external pressure, internal pressure and axial loading;
 - C) Hole size;
 - D) Size and grade of all casing strings (well thickness, diameter, nominal weight, length, joint specification and construction material);
 - E) Corrosiveness of injected fluid, formation fluids and temperature;
 - F) Lithology of injection and confining zones;
 - G) Type or grade of cement; and
 - H) Quantity and chemical composition of the injected fluid.
- 2) One surface casing string must, at a minimum, extend into the confining bed below the lowest formation that contains a USDW and be cemented by circulating cement from the base of the casing to the surface, using a minimum of 120% of the calculated annular volume. The Agency may require more than 120% when the geology or other circumstances warrant it.
- 3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages:
 - A) Of sufficient quantity and quality to withstand the maximum

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operating pressure; and

- B) In a quantity no less than 120% of the calculated volume necessary to fill the annular space. The Agency shall require more than 120% when the geology or other circumstances warrant it.
- 4) Circulation of cement may be accomplished by staging. The Agency may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous and does not allow fluid movement behind the well bore.
- 5) Casings, including any casing connections, must be rated to have sufficient structural strength to withstand, for the design life of the well:
 - A) The maximum burst and collapse pressures which may be experienced during the construction, operation and closure of the well; and
 - B) The maximum tensile stress which may be experienced at any point along the length of the casing during the construction, operating, and closure of the well.
- 6) At a minimum, cement and cement additives must be of sufficient quality and quantity to maintain integrity over the design life of the well.
- d) Tubing and packer.
 - 1) All Class I hazardous waste injection wells must inject fluids through tubing with a packer set at a point specified by permit condition.
 - 2) In determining and specifying requirements for tubing and packer, the following factors must be considered:
 - A) Depth of setting;
 - B) Characteristics of injection fluid (chemical content, corrosiveness, temperature and density);
 - C) Injection pressure;
 - D) Annular pressure;
 - E) Rate (intermittent or continuous), temperature and volume

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of injected fluid;

F) Size of casing; and

G) Tubing tensile, burst, and collapse strengths.

3) The Agency may approve the use of a fluid seal if it determines that the following conditions are met:

A) The operator demonstrates that the seal will provide a level of protection comparable to a packer;

B) The operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;

C) The permit contains specific limitations on variations in annular pressure and loss of annular fluid;

D) The design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and

E) A secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

BOARD NOTE: Derived from 40 CFR 146.65, added at 53 Fed. Reg. 28149, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.166 Logging, Sampling, and Testing Prior to New Well Operation

a) During the drilling and construction of a new Class I hazardous waste injection well, the owner or operator shall run appropriate logs and tests to determine or verify the depth, thickness, porosity, permeability, rock type and the salinity of any entrained fluids in, all relevant geologic units to assure conformance with performance standards in Section 730.165 and to establish accurate baseline data against which future measurements may be compared. A descriptive report interpreting results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Agency. At a minimum, such logs and tests must include:

1) Deviation checks during drilling on all holes constructed by

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drilling a pilot hole which is enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and

2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, the following logs must be required in the following situations:

A) Upon installation of the surface casing:

1) Resistivity, spontaneous potential, and caliber logs before the casing is installed; and

1) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and

B) Upon installation of the long string casing:

1) Resistivity, spontaneous potential, porosity, caliper, gamma ray, and fracture finder logs before the casing is installed; and

1) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and

C) The Agency shall allow the use of an alternative to the above logs when an alternative will provide equivalent or better information; and

3) A mechanical integrity test consisting of:

A) A pressure test with liquid or gas;

B) A radioactive tracer survey;

C) A temperature or noise log;

D) A casing inspection log, if required by permit condition; and

E) Any other test required by permit condition.

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b) Whole cores or sidewall cores of the confining and injection zones and formation fluid samples from the injection zone must be taken. The Agency may accept cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Agency may require the owner or operator to core other formations in the borehole.

c) The fluid temperature, pH, conductivity, pressure and the static fluid level of the injection zone must be recorded.

d) At a minimum, the following information concerning the injection and confining zones shall be determined or calculated for Class I hazardous waste injection wells:

- 1) Fracture pressure;
- 2) Other physical and chemical characteristics of the injection and confining zones; and
- 3) Physical and chemical characteristics of the formation fluids in the injection zone.

e) Upon completion, but prior to operation, the owner or operator shall conduct the following tests to verify hydrogeologic characteristics of the injection zone:

- 1) A pump test; or
- 2) Injectivity tests.

f) The Agency shall have the opportunity to witness all logging and testing required by this Subpart. The owner or operator shall submit a schedule of such activities to the Agency not less than 30 days prior to conducting the first test.

BOARD NOTE: Derived from 40 CFR 146.66, as added at 53 Fed. Reg. 28150, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.167 Operating Requirements.

a) Except during stimulation, the owner or operator shall assure that injection pressure at the wellhead does not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. The owner or operator shall assure that the injection pressure does not initiate

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fractures or propagate existing fractures in the confining zone, nor cause the movement of injection or formation fluids into a USDW.

b) Injection between the outermost casing protecting USDWs and the well bore is prohibited.

c) The owner or operator shall maintain an annulus pressure that exceeds the operating injection pressure, unless the Agency determines that such a requirement might harm the integrity of the well. The fluid in the annulus must be noncorrosive, or must contain a corrosion inhibitor.

d) The owner or operator shall maintain mechanical integrity of the injection well at all times.

e) Permit requirements for owners or operators of hazardous waste injection wells which inject wastes which have the potential to react with the injection formation to generate gases must include:

- 1) Conditions limiting the temperature, pH or acidity of the injected waste; and
- 2) Procedures necessary to assure that pressure imbalances which might cause a backflow or blowout do not occur.

f) The owner or operator shall install and use continuous recording devices to monitor: the injection pressure; the flow rate, volume, and temperature of injected fluids, and the pressure on the annulus between the tubing and the long string casing, and shall install and use:

- 1) Automatic alarm and automatic shut-off systems, designed to sound and shut-in the well when pressures and flow rates or other parameters specified by permit condition exceed a range or gradient specified in the permit; or
- 2) Automatic alarms, designed to sound when the pressures and flow rates or other parameters exceed a rate or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on-site at all times when the well is operating.

g) If an automatic alarm or shutdown is triggered, the owner or operator shall immediately investigate and identify the cause of the alarm or shut-off without undue delay. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under subsection (f) otherwise indicates that the well may be lacking mechanical integrity, the owner or operator shall:

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- 1) Stop injecting waste fluids unless authorized by permit condition to continue or resume injection;
- 2) Take all necessary steps to determine the presence or absence of a leak; and
- 3) Notify the Agency within 24 hours after the alarm or shutdown.
- h) If a loss of mechanical integrity is discovered pursuant to subsection (g) or during periodic mechanical integrity testing, the owner or operator shall:
 - 1) Immediately cease injection of waste fluids;
 - 2) Take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;
 - 3) Notify the Agency within 24 hours after loss of mechanical integrity is discovered;
 - 4) Notify the Agency when injection can be expected to resume; and
 - 5) Restore and demonstrate mechanical integrity pursuant to Section 730.108 prior to resuming injection of waste fluids.
- i) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone:
 - 1) The owner or operator shall immediately cease injection of waste fluids, and:
 - A) Notify the Agency within 24 hours of obtaining such evidence;
 - B) Take all necessary steps to identify and characterize the extent of any release;
 - C) Comply with any remediation plan specified by permit condition;
 - D) Implement any remediation plan specified by permit condition; and
 - E) Where such release is into a USDW currently serving as a water supply, place a notice in a newspaper of general circulation.
 - 2) The Agency shall permit the operator to resume injection prior

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- to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs.
- j) The owner or operator shall notify the Agency and obtain a permit modification prior to conducting any well workover.

BOARD NOTE: Derived from 40 CFR 146.67, as added at 53 Fed. Reg. 28150, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.168 Testing and Monitoring Requirements

Testing and monitoring requirements shall at a minimum include:

 - a) Monitoring of the injected wastes.
 - 1) The owner or operator shall develop and follow an approved written waste analysis plan that describes the procedures to be carried out to obtain a detailed chemical and physical analysis of a representative sample of the waste, including the quality assurance procedures used. At a minimum, the plan shall specify:
 - A) The parameters for which the waste will be analyzed and the rationale for the selection of these parameters;
 - B) The test methods that will be used to test for these parameters; and
 - C) The sampling method that will be used to obtain a representative sample of the waste to be analyzed.
 - 2) The owner or operator shall repeat the analysis of the injected wastes as described in the waste analysis plan at frequencies specified in the waste analysis plan and when process or operating changes occur that may significantly alter the characteristics of the waste stream.
 - 3) The owner or operator shall conduct continuous or periodic monitoring of selected parameters as required by permit condition.
 - 4) The owner or operator shall assure that the plan remains accurate and the analyses remain representative.
 - b) Hydrogeologic compatibility determination. The owner or operator shall submit information demonstrating that the wastewater and its

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anticipated reaction products will not alter the permeability, thickness or other relevant characteristics of the confining or injection zones such that they would no longer meet the requirements specified in Section 730.162.

c) Compatibility of well materials.

1) The owner or operator shall demonstrate that the waste stream will be compatible with the well materials with which the waste is expected to come into contact, and submit to the Agency a description of the methodology used to make that determination. Compatibility for the purposes of this requirement is established if contact with injected fluids will not cause the well materials to fail to satisfy any design requirement imposed under Section 730.165(b).

2) The Agency shall require continuous corrosion monitoring of the construction materials used in the well for wells injecting corrosive waste, and may require such monitoring for other wastes, by:

- A) Placing coupons of the well construction materials in contact with the waste stream; or
 - B) Routing the waste stream through a loop constructed with the material used in the well; or
 - C) Using an alternative method approved by permit condition.
- 3) If a corrosion monitoring program is required:

- A) The test must use materials identical to those used in the construction of the well, and such materials must be continuously exposed to the operating pressures and temperatures (measured at the well head) and flow rates of the injection operation; and
- B) The owner or operator shall monitor the materials for loss of mass, thickness, cracking, pitting and other signs of corrosion on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in Section 730.165(b).

d) Periodic mechanical integrity testing. In fulfilling the requirements of Section 730.108, the owner or operator of a Class I hazardous waste injection well shall conduct the mechanical integrity testing as follows:

- 1) The long string casing, injection tube, and annular seal must be

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tested by means of an approved pressure test with a liquid or gas annually and whenever there has been a well workover;

2) The bottom-hole cement must be tested by means of an approved radioactive tracer survey annually;

3) An approved temperature, noise, or other approved log must be run at least once every five years to test for movement of fluid along the borehole. The Agency may require such tests whenever the well is worked over;

4) Casing inspection logs must be run at least once every five years unless the permit specifies otherwise due to well construction or other factors which limit the test's reliability; and

5) Any other test specified by permit condition in accordance with the procedures in Section 730.108(d) may also be used.

e) Ambient Monitoring.

1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone, and on the potential value of monitoring wells to detect such movement, the Agency shall require the owner or operator to develop a monitoring program. At a minimum, the Agency shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

2) When prescribing a monitoring system the Agency may also require:

- A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator shall, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;
- B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition, or to provide other site-specific data;

C) Periodic monitoring of the groundwater quality in the first aquifer overlying the injection zone;

D) Periodic monitoring of the ground water quality in the lowermost USDW;

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E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs; and

F) The Agency may require seismicity monitoring when it has reason to believe that the injection activity may have the capacity to cause seismic disturbances.

BOARD NOTE: Derived from 40 CFR 146.68, as added at 53 Fed. Reg. 28151, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.169 Reporting Requirements

Reporting requirements must, at a minimum, include:

a) Quarterly reports to the Agency containing:

- 1) The maximum injection pressure;
 - 2) A description of any event that exceeds operating parameters for annulus pressure or injection pressure as specified in the permit;
 - 3) A description of any event which triggers an alarm or shutdown device required pursuant to Section 730.167(f) and the response taken;
 - 4) The total volume of fluid injected;
 - 5) Any change in the annular fluid volume;
 - 6) The physical, chemical and other relevant characteristics of injected fluids; and
 - 7) The results of monitoring prescribed under Section 730.168; and
- b) Reporting, within 30 days or with the next quarterly report whichever comes later, the results of:
- 1) Periodic tests of mechanical integrity;
 - 2) Any other test of the injection well conducted by the permittee if required by permit condition; and
 - 3) Any well workover.

BOARD NOTE: Derived from 40 CFR 146.69, as added at 53 Fed. Reg.

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28152, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.170 Information to be Evaluated

This section sets forth the information which must be evaluated by the Agency in authorizing Class I hazardous waste injection wells. For a new Class I hazardous waste injection well, the owner or operator shall submit all the information listed below as part of the permit application. For an existing or converted Class I hazardous waste injection well, the owner or operator shall submit all information listed below as part of the permit application except for those items of information which are current, accurate and available in the existing permit file. For both existing and new Class I hazardous waste injection wells, certain maps, cross-sections, tabulations of wells within the area of review and other data may be included in the application by reference, provided they are current and readily available to the Agency (for example, in the permitting Agency's file) and sufficiently identifiable to be retrieved.

a) Before issuing a permit for an existing Class I hazardous waste

injection well to operate or the construction or conversion of a new Class I hazardous waste injection well, the Agency shall review the following to assure that the requirements of this Part and 35 Ill. Adm. Code 702 and 704 are met:

- 1) Information required in 35 Ill. Adm. Code 704.161;
- 2) A map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features, including residences and roads. The map must also show faults, if known or suspected;
- 3) A tabulation of all wells within the area of review which penetrate the proposed injection zone or confining zone. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging or completion and any additional information the Agency may require;
- 4) The protocol followed to identify, locate and ascertain the condition of abandoned wells within the area of review which penetrate the injection or the confining zones;
- 5) Maps and cross-sections indicating the general vertical and

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lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;

- 6) Maps and cross-sections detailing the geologic structure of the local area;
- 7) Maps and cross-sections illustrating the regional geologic setting;
- 8) Proposed operating data:
 - A) Average and maximum daily rate and volume of the fluid to be injected; and
 - B) Average and maximum injection pressure;
- 9) Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the injection formation and the confining zone;
- 10) Proposed stimulation program;
- 11) Proposed injection procedure;
- 12) Schematic or other appropriate drawings of the surface and subsurface construction details of the well;
- 13) Contingency plan to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW;
- 14) Plans (including maps) for meeting monitoring requirements of Section 730.168;
- 15) For wells within the area of review which penetrate the injection zone or the confining zone but are not properly completed or plugged, the corrective action to be taken under Section 730.164;
- 16) Construction procedures including a cementing and casing program, well materials specification and their life expectancy, logging procedures, deviation checks, and a drilling, testing and coring program; and
- 17) A demonstration pursuant to 35 Ill. Adm. Code 704, Subpart G, that the applicant has the resources necessary to close, plug or abandon the well and for post-closure care.

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b) Before the Agency grants approval for the operation of a Class I hazardous waste injection well, the owner or operator shall submit and the Agency shall review the following information, which must be included in the completion report:

- 1) All available logging and testing program data on the well;
 - 2) A demonstration of mechanical integrity pursuant to Section 730.168;
 - 3) The anticipated maximum pressure and flow rate at which the permittee will operate;
 - 4) The results of the injection zone and confining zone testing program as required in Section 730.170(a)(9);
 - 5) The actual injection procedure;
 - 6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone and with the materials used to construct the well;
 - 7) The calculated area of review based on data obtained during logging and testing of the well and the formation and, where necessary, revisions to the information submitted under Section 730.170(a)(2) and (3); and
 - 8) The status of corrective action on wells identified in Section 730.170(a)(15).
- c) Prior to granting approval for the plugging and abandonment (i.e., closure) of a Class I hazardous waste injection well, the Agency shall review the information required in Sections 730.171(a)(4) and 730.172(a).
- d) Any permit issued for a Class I hazardous waste injection well for disposal on the premises where the waste is generated must contain a certification by the owner or operator that:
- 1) The generator of the hazardous waste has a program to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and
 - 2) Injection of the waste is that practicable method of disposal currently available to the generator which minimizes the present and future threat to human health and the environment.
- BOARD NOTE: Derived from 40 CFR 146.70, as added at 53 Fed. Reg.

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28152, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.171 Closure

- a) Closure Plan. The owner or operator of a Class I hazardous waste injection well shall prepare, maintain, and comply with a plan for closure of the well that meets the requirements of subsection (d) and is specified by permit condition. The obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
- 1) The owner or operator shall submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
- 2) The owner or operator shall submit any proposed significant revision to the method of closure reflected in the plan for approval by the Agency no later than the date on which notice of closure is required to be submitted to the Agency under subsection (b).
- 3) The plan must assure financial responsibility as required in 35 Ill. Adm. Code 704.189.
- 4) The plan must include the following information:
- A) The type and number of plugs to be used;
- B) The placement of each plug including the evaluation of the top and bottom of each plug;
- C) The type and grade and quantity of material to be used in plugging;
- D) The method of placement of the plugs;
- E) Any proposed test or measure to be made;
- F) The amount, size and location (by depth) of casing and any other materials to be left in the well;
- G) The method and location where casing is to be parted, if applicable;
- H) The procedure to be used to meet the requirements of subsection (d)(5); and
- I) The estimated cost of closure.
- 5) The Agency must modify a closure plan following the procedures of 35 Ill. Adm. Code 702.Subpart C.
- 6) An owner or operator of a Class I hazardous waste injection well who stops injection temporarily, may keep the well open if the owner or operator:
- A) Has received authorization from the Agency; and
- B) Has described actions or procedures, satisfactory to the Agency, that the owner or operator will take actions to ensure that the well will not endanger USDWs during the period of temporary disuse. These actions and procedures must include compliance with the technical requirements applicable to active injection wells unless otherwise waived by permit condition.
- C) For the purposes of this subsection, submitting a description of actions or procedures for Agency authorization is in the nature of a permit application, and the owner or operator may appeal the Agency's decision to the Board.
- 7) The owner or operator of a well that has ceased operations for more than two years shall notify the Agency at least 30 days prior to resuming operation of the well.
- 8) Notice of intent to close. The owner or operator shall notify the Agency at least 60 days before closure of a well.
- 9) Closure report. Within 60 days after closure or at the time of the next quarterly report (whichever is less) the owner or operator shall submit a closure report to the Agency. If the quarterly report is due less than 15 days after completion of closure, then the report must be submitted within 60 days after closure. The report must be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report must consist of either:
- 1) A statement that the well was closed in accordance with the closure plan previously submitted and approved by the Agency; or
- 2) Where actual closure differed from the plan previously submitted, a written statement specifying the differences

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between the previous plan and the actual closure.

d) Standards for well closure.

- 1) Prior to closing the well, the owner or operator shall observe and record the pressure decay for a time specified by permit condition. The Agency shall analyze the pressure decay and the transient pressure observations conducted pursuant to Section 730.168(e)(1)(A) and determine whether the injection activity has conformed with predicted values.
- 2) Prior to well closure, appropriate mechanical integrity testing must be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include:
 - A) Pressure tests with liquid or gas;
 - B) Radioactive tracer surveys;
 - C) Noise, temperature, pipe evaluation, or cement bond logs; and
 - D) Any other test required by permit condition.
- 3) Prior to well closure, the well must be flushed with a buffer fluid.
- 4) Upon closure, a Class I hazardous waste injection well must be plugged with cement in a manner that will not allow the movement of fluids into or between USDWs.
- 5) Placement of the cement plugs must be accomplished by one of the following:
 - A) The Balance Method;
 - B) The Dump Bailor Method;
 - C) The Two-Plug Method; or
 - D) An alternative method, specified by permit condition, that will reliably provide a comparable level of protection.
- 6) Each plug used must be appropriately tagged and tested for seal and stability before closure is completed.
- 7) The well to be closed must be in a state of static equilibrium with the mud weight equalized top to bottom, either by

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circulating the mud in the well at least once or by a comparable method prescribed by permit condition, prior to the placement of the cement plug(s).

BOARD NOTE: Derived from 40 CFR 146.71, as added at 53 Fed. Reg. 28153, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.172 Post-Closure Care

- a) The owner or operator of a Class I hazardous waste injection well shall prepare, maintain and comply with a plan for post-closure care that meets the requirements of subsection (b) and is specified by permit condition. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
- 1) The owner or operator shall submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
- 2) The owner or operator shall submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required under Section 730.171(c).
- 3) The plan must assure financial responsibility as required in Section 730.173.
- 4) The plan must include the following information:
 - A) The pressure in the injection zone before injection began;
 - B) The anticipated pressure in the injection zone at the time of closure;
 - C) The predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;
 - D) Predicted position of the waste front at closure;
 - E) The status of any cleanups required under Section 730.164; and
 - F) The estimated cost of proposed post-closure care.

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5) At the request of the owner or operator, or on its own initiative, the Agency may modify the post-closure plan after submission of the closure report following the procedures in 35 Ill. Adm. Code 705.128.

b) The owner or operator shall:

1) Continue and complete any cleanup action required under Section 730.164, if applicable;

2) Continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The Agency shall extend the period of post-closure monitoring if it determines that the well may endanger a USDW;

3) Submit a survey plat to the local zoning authority designated by permit condition. The plat must indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat must be submitted to USEPA, Region V;

4) Notify the Illinois Department of Mines and Minerals as to the depth and location of the well and the confining zone; and

5) Retain, for a period of three years following well closure, records reflecting the nature, composition and volume of all injected fluids. Owners or operators shall deliver the records to the Agency at the conclusion of the retention period.

c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, shall record a notation on the deed to the facility property or on some other instrument which is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

1) The fact that land has been used to manage hazardous waste;

2) The names of the Illinois Department of Mines and Minerals and the local zoning authority with which the plat was filed, as well as the address of Region V Environmental Protection Agency; and

3) The type and volume of waste injected, the injection interval or intervals into which it was injected and the period over which injection occurred.

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d) In addition to the requirements stated in this Section, each owner of a Class I hazardous waste injection well must comply with the Illinois Responsible Property Transfer Act of 1988, Ill. Rev. Stat. 1987 Ch. 30, par. 901 (P.A. 85-1228, effective January 1, 1989).

BOARD NOTE: Derived from 40 CFR 146.72, as added at 53 Fed. Reg. 28152, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

Section 730.173 Financial Responsibility for Post-Closure Care

The owner or operator shall demonstrate and maintain financial responsibility for post-closure care by using a trust fund, surety bond, letter of credit, financial test, insurance or corporate guarantantee that meets the specifications for the mechanisms and instruments revised as appropriate to cover closure and post-closure care in 35 Ill. Adm. Code 704. Subpart 6. The amount of the funds available must be no less than the amount identified in Section 730.172(a)(4)(F). The obligation to maintain financial responsibility for post-closure care survives the termination of a permit or the cessation of injection. The requirement to maintain financial responsibility is enforceable whether or not the requirement is a condition of the permit.

BOARD NOTE: Derived from 40 CFR 146.73, as added at 53 Fed. Reg. 28154, July 26, 1988.

(Source: Added at 13 Ill. Reg. , effective)

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1) Heading of the Part:

Life Care Facilities Contract Code

2) Code Citation:

77 Ill. Adm. Code 396

3) Section Numbers:

396.10	New Section
396.20	New Section
396.30	New Section
396.40	New Section
396.50	New Section
396.60	New Section
396.70	New Section

Proposed Action:4) Statutory Authority:Life Care Facilities Act
Ill. Rev. Stat. 1987 and 1988 Supp., ch. 111 1/2, par. 4160 et seq.5) A Complete Description of the Subjects and Issues Involved:

This rulemaking establishes uniform requirements for permit application, provider responsibilities, enforcement provisions, and penalties.

This rulemaking requires that providers submit, at the time of their application to operate: (1) a copy of the proposed form of Life Care contract to be entered into with the residents; (2) a copy of the escrow agreements or letters of credit, where applicable, as provided by Section 7 of the Act; (3) details of facility size (specific number of living units) and explanations of any plans to make long-term beds available to non-residents (subject to IDPH approval); (4) detailed descriptions of any long-term financing of the facility; (5) audited financial statements of the facility; (6) completion of an IDPH permit application form and submission of a \$100.00 application fee.

Providers are charged with these responsibilities: (1) deliver to each resident a financial disclosure statement (reflecting the provider's financial position) prior to the execution of a Life Care contract; (2) allow a 14-day rescission period following the execution of a Life Care contract; (3) establish and maintain escrow accounts and/or letters of credit as specified in the Act; (4) submit audited statements of financial condition annually.

Enforcement provisions (Section 9 of the Act) allow the Director of IDPH

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to: (1) initiate appropriate legal action (via the attorney general) in the event that a provider becomes insolvent or fails to maintain compliance with Section 7 of the Act (re: escrow accounts and/or letters of credit); (2) authorize audits or examinations of any provider (Section 10 of the Act); (3) impose penalties (denial of an application for a Life Care permit, or the revoking or suspension of an existing permit if the provider violates any provisions of the Act). A provider deemed in violation of the Life Care Facilities Act is subject to IDPH penalties: a provider entering into Life Care contracts without a permit is guilty of a Class A misdemeanor.

These proposed rules clarify terms found within the Act ("Escrow Account", "Letter of Credit" and "Financial Institution") and give emphasis to the Act's intention to involve IDPH in the review of the financial strength of both proposed and operating life care facilities. As proposed, the submission of detailed, audited financial statements by the provider to the IDPH will be required (upon application, annually thereafter, and in the event of changes in the provider's financial position) by these life care contract rules.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates that this proposed rulemaking will become effective approximately six to nine months from the date of publication as proposed in the Illinois Register.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?Yes ☐ No ☒7) Does this Rulemaking Contain an Automatic Repeal Date? Yes ☐ No ☒

If "yes," please specify the date: _____

8) Does this Rulemaking Contain Any Incorporations By Reference?Yes ☐ No ☒

If "yes," please specify type: 6.02(a) _____ or 6.02(b) _____

9) Are there any other Proposed Amendments Pending on this Part?Yes ☐ No ☒

If Yes: _____

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Section Numbers	Proposed Action	Ill. Reg. Citation
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10) Statement of Statewide Policy Objectives:

This rulemaking should not create or expand a state mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Mr. Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

None.

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

Application procedures, and annual financial reporting.

D) Types of Professional Skills Necessary for Compliance:

None.

The full text of the proposed Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED RULESTITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIESPART 396
LIFE CARE FACILITIES CONTRACT CODE

Section	Definitions
396.10	Who Must Obtain a Permit
396.20	Application for a Permit
396.30	Permits
396.40	Provider Responsibilities
396.50	Enforcement Provisions
396.60	Penalty
396.70	

AUTHORITY: Implementing and authorized by the Life Care Facilities Act (111 Rev. Stat. 1987 and 1988 Supp., ch. 111 1/2, par. 4160-1 et seq).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section	Definitions
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"Act" means the Life Care Facilities Act (111 Rev. Stat. 1987 and 1988 Supp., ch. 111 1/2, par. 4160 et seq).

"CERTIFICATES OF NEED" MEANS THOSE PERMITS ISSUED PURSUANT TO THE ILLINOIS HEALTH FACILITIES PLANNING ACT AS NOW OR HEREFTER AMENDED (Section 2(n) of the Act).

"DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH (Section 2(a) of the Act).

"DIRECTOR" MEANS DIRECTOR OF THE DEPARTMENT (Section 2(b) of the Act).

"ENTRANCE FEE" MEANS AN INITIAL OR DEFERRED TRANSFER TO A PROVIDER OF A SUM OF MONEY OR PROPERTY, MADE OR PROMISED TO BE MADE BY A PERSON ENTERING INTO A LIFE CARE CONTRACT, WHICH ASSURES A RESIDENT OF SERVICES PURSUANT TO A LIFE CARE CONTRACT (Section 2(h) of the Act).

"Escrow Account" means an account with a bank, trust company, or other financial institution located in the State of Illinois, held in the name of the provider and the escrow agent. The escrow account is returned to the provider or paid to a third party on fulfillment of

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the escrow conditions.

"FACILITY" MEANS A PLACE OR PLACES IN WHICH A PROVIDER UNDERTAKES TO PROVIDE A RESIDENT WITH NURSING SERVICES, MEDICAL SERVICES OR PERSONAL CARE SERVICES. IN ADDITION TO MAINTENANCE SERVICES FOR A TERM IN EXCESS OF ONE YEAR OR FOR LIFE PURSUANT TO A LIFE CARE CONTRACT. THE TERM ALSO MEANS A PLACE OR PLACES IN WHICH A PROVIDER UNDERTAKES TO PROVIDE SUCH SERVICES TO A NON-RESIDENT (Section 2(f) of the Act).

"Financial disclosure statement" means the most recent balance sheet and income statement of the provider.

"Financial Institution" means a savings and loan association authorized to do business under the "Illinois Savings and Loan Act of 1985", as amended (Ill. Rev. Stat. 1987, ch. 17, par. 3301 et seq.), or a credit union authorized to do business under the "Illinois Credit Union Act", as amended (Ill. Rev. Stat. 1987, ch. 17, par. 4401 et seq.).

"Letter of Credit" means an official guarantee from the issuer (bank, trust company, or other financial institution located in the State of Illinois) to honor the commitments imposed in its provision for the length of time and amount specified. Since the issuer pledges its full faith and credit behind the instrument, it is a security equal to that of an escrow account. A letter of credit must be irrevocable and subject to the provisions of Section 7 of the Act which apply to the escrow in lieu of which the letter of credit is established.

"LIFE CARE CONTRACT" MEANS A CONTRACT TO PROVIDE TO A PERSON FOR THE DURATION OF SUCH PERSON'S LIFE OR FOR A TERM IN EXCESS OF ONE (1) YEAR, NURSING SERVICES, MEDICAL SERVICES OR PERSONAL CARE SERVICES, IN ADDITION TO MAINTENANCE SERVICES FOR SUCH PERSON IN A FACILITY, CONDITIONED UPON THE TRANSFER OF AN ENTRANCE FEE TO THE PROVIDER OF SUCH SERVICES IN ADDITION TO OR IN LIEU OF THE PAYMENT OF REGULAR PERIODIC CHARGES FOR THE CARE AND SERVICES INVOLVED (Section 2(c) of the Act).

"LIVING UNIT" MEANS AN APARTMENT, ROOM OR OTHER AREA WITHIN A FACILITY SET ASIDE FOR THE EXCLUSIVE USE OF ONE OR MORE IDENTIFIED RESIDENTS, who have entered into a Life Care Contract (Section 2 (g) of the Act).

"MAINTENANCE SERVICES" MEANS FOOD, SHELTER AND LAUNDRY SERVICES (Section 2(m) of the Act).

"MEDICAL SERVICES" MEANS THOSE SERVICES PERTAINING TO MEDICAL OR DENTAL CARE THAT ARE PERFORMED IN BEHALF OF PATIENTS AT THE

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DIRECTION OF A PHYSICIAN LICENSED UNDER THE MEDICAL PRACTICE ACT OF 1987 OR A DENTIST LICENSED UNDER THE ILLINOIS DENTAL PRACTICE ACT BY SUCH PHYSICIANS OR BY A REGISTERED OR LICENSED PRACTICAL NURSE AS DEFINED IN THE ILLINOIS NURSING ACT OR BY OTHER PROFESSIONAL AND TECHNICAL PERSONNEL. For purposes of the Act and these rules, the term only applies to services provided in a facility licensed under the Nursing Home Care Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) (Section 2 (j) of the Act)

"NON-RESIDENT" MEANS A PERSON ADMITTED TO A FACILITY WHO HAS NOT ENTERED INTO A LIFE CARE CONTRACT (Section 2(o) of the Act).

"NURSING SERVICES" MEANS THOSE SERVICES PERTAINING TO THE CURATIVE, RESTORATIVE AND PREVENTIVE ASPECTS OF NURSING CARE THAT ARE PERFORMED AT THE DIRECTION OF A PHYSICIAN LICENSED UNDER THE MEDICAL PRACTICE ACT OF 1987 BY OR UNDER THE SUPERVISION OF A REGISTERED OR LICENSED PRACTICAL NURSE AS DEFINED IN THE ILLINOIS NURSING ACT OF 1987. For purposes of the Act and these rules, the term only applies to services provided in a facility licensed under the Nursing Home Care Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) (Section 2(k) of the Act).

"PERMIT" MEANS A WRITTEN AUTHORIZATION TO ENTER INTO LIFE CARE CONTRACTS ISSUED BY THE DEPARTMENT TO A PROVIDER (Section 2 (i) of the Act).

"PERSONAL CARE SERVICES" MEANS ASSISTANCE WITH MEALS, DRESSING, MOVEMENT, BATHING OR OTHER PERSONAL NEEDS OR MAINTENANCE, OR GENERAL SUPERVISION AND OVERSIGHT OF THE PHYSICAL AND MENTAL WELL-BEING OF AN INDIVIDUAL, WHO IS INCAPABLE OF MAINTAINING A PRIVATE INDEPENDENT RESIDENCE OR WHO IS INCAPABLE OF MANAGING HIS PERSON WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED FOR SUCH INDIVIDUAL. For purposes of the Act and these rules, the term only applies to services provided in a facility licensed under the Nursing Home Care Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) (Section 2(l) of the Act).

"PROVIDER" MEANS A PERSON WHO PROVIDES SERVICES PURSUANT TO A LIFE CARE CONTRACT (Section 2(d) of the Act).

"Regular periodic charges" means the monthly fee for services which include but are not limited to room, board, nursing, personal care, maintenance, etc.

"RESIDENT" MEANS A PERSON WHO ENTERS INTO A LIFE CARE CONTRACT WITH A PROVIDER, OR WHO IS DESIGNATED IN A LIFE CARE CONTRACT TO BE A PERSON PROVIDED WITH MAINTENANCE AND NURSING, MEDICAL OR PERSONAL CARE SERVICES (Section 2(e) of the Act).

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Section 396.20 Who Must Obtain a Permit

Any provider who proposes to enter into a life care contract or proposes to extend the term of an existing life care contract must receive a permit from the Department.

Section 396.30 Application for a Permit

- a) Applications shall be made on forms provided by the Department. Applications forms may be obtained by writing to:

Illinois Department of Public Health
Division of Health Statistics and Policy Development
535 West Jefferson Street, Second Floor
Springfield, Illinois 62761

- b) An application for a permit to operate a life care facility must contain the following:

- 1) A COPY OF THE PROPOSED FORM OF LIFE CARE CONTRACT TO BE ENTERED INTO WITH THE RESIDENTS (Section 4 of the Act).
- 2) A COPY OF THE LETTER OF CREDIT OR ESCROW AGREEMENT AS PROVIDED BY SECTION 7 OF THE ACT. To allow the Department to determine the provider's compliance with Section 7 of the Act, a complete, detailed description of any long-term financing of the facility must be submitted with the application. Such a description may be provided as a component of the escrow agreement or letter of credit.
- 3) A PERMIT APPLICATION FEE OF \$100.00 (Section 4 of the Act).
- 4) An audited statement of the facility's financial position in each of the three years prior to the application.
 - A) If the facility has not previously existed, audited financial statements of its source of solvency (i.e., parent corporation, partnership, etc.) are required.
 - B) Financial statements of the provider shall be prepared in accordance with generally accepted accounting principles and reported upon by certified public accountants with generally accepted auditing standards.
- 5) A detailed plan for the care of life care residents in the event that their well-being requires a higher level of nursing, medical, personal care, or maintenance services than can be provided in the independent living units.

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- A) Facilities may make licensed long-term care beds available to non-residents only with the approval of the Department.

Approval will be based upon whether the facility will be providing sufficient licensed beds to accommodate its residents without having to transfer or discharge any resident or non-resident. Facilities seeking such approval shall include with the application an explanation as to how the above will be accomplished. This explanation shall include at a minimum the number and type of licensed beds at the facility, the maximum number of beds that will be used for non-residents, a description of any plans to phase out the number of beds to be used for non-residents, and projections of the number and types of licensed beds that will be needed for residents along with the basis for those projections.

- B) If the life care facility contains no licensed beds, an explanation of plans to meet the eventual needs of those residents who are contractually entitled to levels of care beyond the scope of the life care units must be provided to the Department at the time of application.

Section 396.40 Permits

Applications will be reviewed and permits granted or denied in accordance with the criteria of this Part.

- a) Permits shall be issued for a specific number of living units and
- b) Permits shall be granted to specific grantees and are not transferable.

Section 396.50 Provider Responsibilities

- a) AT THE TIME OF OR PRIOR TO THE EXECUTION OF A LIFE CARE CONTRACT AND THE TRANSFER OF ANY MONEY OR OTHER PROPERTY TO A PROVIDER OR ESCROW AGENT, THE PROVIDER SHALL DELIVER TO THE RESIDENT A COPY OF A FINANCIAL DISCLOSURE STATEMENT REFLECTING THE PROVIDER'S FINANCIAL CONDITION (Section 5(a) of the Act).

- b) THE LIFE CARE CONTRACT SHALL PROVIDE THAT ANY PERSON ENTERING THE CONTRACT SHALL HAVE A PERIOD OF 14 DAYS BEGINNING WITH THE FIRST FULL CALENDAR DAY FOLLOWING THE EXECUTION OF THE CONTRACT, OR THE PAYMENT OF AN INITIAL SUM OF MONEY AS A DEPOSIT OR APPLICATION FEE, OR RECEIPT OF THE FINANCIAL DISCLOSURE STATEMENT, WHICHEVER OCCURS LAST, WITHIN WHICH TO RESCIND THE LIFE CARE CONTRACT WITHOUT PENALTY OR FURTHER OBLIGATION. IN THE EVENT OF SUCH RESCSSION, ALL MONEY OR PROPERTY PAID OR TRANSFERRED BY SUCH PERSON SHALL BE FULLY REFUNDED. NO PERSON SHALL BE REQUIRED TO MOVE INTO A FACILITY UNTIL AFTER THE

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EXPIRATION OF THE 14 DAY RECISION PERIOD (Section 5(b) of the Act).

- c) To the extent that a facility also qualifies as a long-term care facility under the Nursing Home Care Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) then the facility must comply with that Act and the regulations promulgated thereunder as well as the Life Care Facilities Act and this Part.

- d) When required by subsections (e) and (f) below, the provider shall establish and maintain on a current basis, an escrow account and/or letter of credit with a bank, trust company, or other financial institution located in the State of Illinois. Such financial institution shall provide to the Department notification describing the facility's escrow account or letter of credit on an annual basis and within 15 days of any change effecting the escrow account or letter of credit.

- e) Requirements for new facilities:

- 1) IF THE ENTRANCE FEE APPLIES TO A LIVING UNIT WHICH HAS NOT PREVIOUSLY BEEN OCCUPIED BY ANY RESIDENT, ALL ENTRANCE FEE PAYMENTS REPRESENTING EITHER ALL OR ANY SMALLER PORTION OF THE TOTAL ENTRANCE FEE SHALL BE PAID TO THE ESCROW AGENT BY THE RESIDENT (Section 7(a)(1) of the Act).

- 2) WHEN THE PROVIDER HAS SOLD AT LEAST 1/2 OF THE LIVING UNITS COVERED BY A SINGLE PERMIT, OBTAINED A MORTGAGE COMMITMENT, IF NEEDED, AND OBTAINED ALL NECESSARY ZONING PERMITS AND CERTIFICATES OF NEED, IF REQUIRED, THE ESCROW AGENT with approval of the Director may release a sum representing 1/5 OF THE RESIDENT'S TOTAL ENTRANCE FEE TO THE PROVIDER. UPON COMPLETION OF THE FOUNDATION OF THE LIVING UNIT AN ADDITIONAL 1/5 OF THE RESIDENT'S TOTAL ENTRANCE FEE MAY BE RELEASED TO THE PROVIDER. WHEN THE LIVING UNIT IS UNDER ROOF A FURTHER AND ADDITIONAL 1/5 OF THE RESIDENT'S TOTAL ENTRANCE FEE MAY BE RELEASED TO THE PROVIDER. ALL REMAINING MONIES, IF ANY, SHALL REMAIN IN ESCROW UNTIL THE RESIDENT'S LIVING UNIT IS SUBSTANTIALLY COMPLETED AND READY FOR OCCUPANCY BY THE RESIDENT. WHEN THE LIVING UNIT IS READY FOR OCCUPANCY THE ESCROW AGENT MAY RELEASE THE REMAINING ESCROW AMOUNT TO THE PROVIDER AND FURTHER ENTRANCE FEE PAYMENTS, IF ANY, MAY BE PAID BY THE RESIDENT TO THE PROVIDER DIRECTLY. ALL MONIES RELEASED FROM ESCROW SHALL BE USED FOR THE FACILITY AND FOR NO OTHER PURPOSE. (Section 7(a)(2) of the Act)

- f) Requirements for all facilities:

AT THE TIME OF RESIDENT OCCUPANCY AND AT ALL TIMES THEREAFTER, THE

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ESCROW AMOUNT SHALL BE IN AN AMOUNT WHICH EQUALS OR EXCEEDS THE AGGREGATE PRINCIPAL AND INTEREST PAYMENTS DUE DURING THE NEXT 6 MONTHS ON ACCOUNT OF ANY FIRST MORTGAGE OR OTHER LONG-TERM FINANCING OF THE FACILITIES (Section 7(b)(1) of the Act). In lieu of the escrow account, the provider may obtain an irrevocable letter of credit in the amount required by this provision. The letter of credit shall specify that funds are to be paid out in the amount and manner specified by the Director.

- g) THE ESCROW MONIES REQUIRED BY SECTION 6 OF THE ACT MAY BE RELEASED TO THE PROVIDER UPON APPROVAL BY THE DIRECTOR. THE DIRECTOR MAY ATTACH SUCH CONDITIONS ON THE RELEASE OF MONIES AS HE DEEMS FIT INCLUDING, BUT NOT LIMITED TO, THE PERFORMANCE OF AN AUDIT WHICH SATISFIES THE DIRECTOR THAT THE FACILITY IS SOLVENT, A PLAN FROM THE FACILITY TO BRING THE FACILITY BACK IN COMPLIANCE WITH SECTION (6), AND A REPAYMENT SCHEDULED (Section 7(b)(2) of the Act).

- h) An audited statement of the financial condition of the facility must be submitted annually to the Department by the provider within 90 days of the anniversary date of the original issuance of the facility's life care permit and no later than 60 days after the completion of the audit.

- i) Providers must immediately report to the Department any changes in the financial condition of the facility which could threaten the facility's solvency or impair its ability to meet its contractual obligations to its residents.

- j) IF THE FACILITY CEASES TO OPERATE ALL MONIES IN THE ESCROW ACCOUNT EXCEPT THE AMOUNT REPRESENTING PRINCIPAL AND INTEREST SHALL BE REPAYED BY THE ESCROW AGENT TO THE RESIDENT (Section 7(b) (4) of the Act). Such repayments should be in the form of a cashier's check.

Section 396.60 Enforcement Provisions

- a) AT ANY TIME THE DIRECTOR RECEIVES NOTICE FROM THE ESCROW AGENT THAT THE PROVISIONS OF SECTION 7 OF THE ACT HAVE NOT BEEN COMPLIED WITH, OR AT ANY OTHER TIME WHEN THE DIRECTOR HAS REASON TO BELIEVE THAT THE PROVIDER IS INSOLVENT, IS IN IMMINENT DANGER OF BECOMING INSOLVENT OR THAT ITS CONDITION IS SUCH THAT IT MAY BE FINANCIALLY UNABLE TO FULLY PERFORM ITS OBLIGATIONS PURSUANT TO LIFE CARE CONTRACTS, THE DIRECTOR SHALL, THROUGH THE ATTORNEY GENERAL, FILE AN APPROPRIATE ACTION ON BEHALF OF THE STATE OF ILLINOIS AND ANY OR ALL RESIDENTS IN ANY COURT OF COMPETENT JURISDICTION, INCLUDING THE FEDERAL BANKRUPTCY COURT OR ANY OTHER FEDERAL COURT (Section 9 of the Act).

- b) THE DIRECTOR OF HIS AUTHORIZED DESIGNEE MAY CONDUCT AN AUDIT OR OTHER

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EXAMINATION OF THE FINANCIAL AFFAIRS OF ANY PROVIDER AS OFTEN AS HE DEMS IT NECESSARY FOR THE PROTECTION OF THE INTERESTS OF THE RESIDENTS AND THE PEOPLE OF THIS STATE, AND FOR THIS PURPOSE SHALL HAVE ACCESS TO THE BOOKS, RECORDS, FINANCIAL DATA AND OTHER DOCUMENTS MAINTAINED BY THE FACILITY (Section 10 of the Act).

- c) THE DEPARTMENT MAY DENY THE APPLICATION FOR PERMIT OR REVOKE OR SUSPEND AN EXISTING PERMIT FOR VIOLATION OF ANY PROVISION OF THIS PART. (Section 11 of the Act). Proceedings for denial, revocation or suspension of a permit will be conducted in accordance with the Department's "Rules of Practice and Procedure in Administrative Hearings " (77 Ill. Adm. Code 100).

Section 396.70 Penalty

ANY PERSON ACTING IN THE CAPACITY OF A PROVIDER WHO ENTERS INTO A LIFE CARE CONTRACT, OR EXTENDS THE TERM OF AN EXISTING LIFE CARE CONTRACT, WITHOUT FIRST HAVING BEEN ISSUED A PERMIT BY THE DEPARTMENT OR OTHERWISE ACTING IN COMPLIANCE WITH THE PROVISIONS OF THE ACT, SHALL BE GUILTY OF A CLASS A MISDEMEANOR (Section 12 of the Act).

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- 1) Heading of the Part: Income Tax
2) Code Citation: 86 Ill. Adm. Code 100
3) Section Numbers: 100.3250
Proposed Action: Amendment

- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 120, pars. 14-1401(a), 15-1501(a)(14), and 15-1501(a)(20)
5) A complete description of the subjects and issues involved: Section 100.3250 is clarified and superfluous language is removed. Presumption of nonresidence is added.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
7) Does this rulemaking contain an automatic repeal date? Yes ☒ No
8) Does this proposed amendment contain incorporations by reference? No
9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
100.2900	Amendment	7/7/89, 13 Ill. Reg. 10772
100.2901	New Section	7/7/89, 13 Ill. Reg. 10772
100.2902	Amendment	7/7/89, 13 Ill. Reg. 10772
100.2903	New Section	7/7/89, 13 Ill. Reg. 10772
100.2904	New Section	7/7/89, 13 Ill. Reg. 10772

- 10) Statement of Statewide Policy Objectives: N/A

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Lawrence W. Reisch, Jr.
Staff Attorney
Income Tax Legal Division
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 13, 1989

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- B) Types of small businesses affected: None
- C) Reporting, bookkeeping or other procedures required for compliance:
None
- D) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendment(s) begins on the next page:

Section
100.2000

100.2050

100.2100

100.2150

100.2200

100.2250

100.2300

100.2350

100.2400

100.2450

DEPARTMENT OF REVENUE

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Personal Property Tax Replacement Income Tax (hereinafter PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - In General (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Carryover Items (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Partnership Income (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Long Term Contracts Reported on the Completed Contract Method (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - In General (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Carryover Items (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Partnership Income (ITTA Section 201) (Repealed)

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Long Term Contracts

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Reported on the Completed Contract Method (ITTA Section 201) (Repealed)
100.2500 Scope of 86 Ill. Adm. Code 100.2000 through 100.2450 (Repealed)
100.2550 Net Income (ITTA Section 202)
100.2560 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (ITTA 207)
100.2561 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (ITTA 207)
100.2562 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2563 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
100.2564 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2565 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
100.2600 Special Transitional Rules (ITTA Section 202) (Repealed)
100.2650 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITTA Section 202) - Scope
100.2675 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITTA Section 202) - Definitions
100.2700 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITTA Section 202) - Current Net Operating Losses: Offsets Between Members
100.2750 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITTA Section 202) - Carrybacks and Carryforwards
100.2800 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITTA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2850 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITTA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year.
100.2900 Investment Tax Credits
100.2950 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside For Charity

SUBPART B: ALLOCATION AND APPOINTMENT OF BASE INCOME

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Section
100.3000 Terms Used in Article 3 (ITTA Section 301)
100.3050 Business and Nonbusiness Income (ITTA Section 301)
100.3100 Compensation (ITTA Section 302)
100.3150 State (ITTA Section 302)
100.3200 Taxability in Other State (ITTA Section 303)
100.3250 Resident (ITTA Section 301)
100.3300 Commercial Domicile (ITTA Section 303)
100.3350 Allocation and Apportionment of Base Income (ITTA Section 304)
100.3400 Allocation of Compensation Paid to Nonresidents (ITTA Section 302)
100.3450 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (ITTA Section 303)
100.3500 Business Income of Persons Other than Residents (ITTA Section 304) - In General
100.3510 Business Income of Persons Other than Residents (ITTA Section 304) - Apportionment
100.3520 Business Income of Persons Other than Residents (ITTA Section 304) - Allocation
100.3530 Business Income of Persons Other than Residents (ITTA Section 304)
100.3550 Property Factor (ITTA Section 304)
100.3600 Payroll Factor (ITTA Section 304)
100.3650 Sales Factor (ITTA Section 304)
100.3700 Special Rules (ITTA Section 304)

SUBPART C: RECORDS, RETURNS AND NOTICES

Section
100.5200 Time for Filing Returns: (ITTA Section 505)
100.5250 Time for Filing Returns: Corporations (ITTA Section 505) (Repealed)
100.5300 Time for Filing Returns: Cooperatives (ITTA Section 505) (Repealed)
100.5350 Time for Filing Returns: Partnerships (ITTA Section 505) (Repealed)
100.5400 Time for Filing Returns: Estates and Trusts (ITTA Section 505) (Repealed)
100.5450 Place for Filing Returns: All Taxpayers (ITTA Section 505)
100.5500 Extensions of Time for Filing Returns: All Taxpayers (ITTA Section 505)
100.5550 Short Year Returns of Newly Acquired Subsidiaries (ITTA Section 505) (Repealed)
100.5600 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (ITTA Section 506)
100.5700 Composite Returns: Eligibility
100.5702 Composite Returns: Responsibilities of Authorized Agent

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100.5704 Composite Returns: Individual Liability
 100.5706 Composite Returns: Required Forms and computation of Income
 100.5708 Composite Returns: Estimated Payments
 100.5710 Composite Return: Tax, Penalties and Interest
 100.5712 Composite Returns: Credit for Resident Individuals
 100.5714 Composite Returns: Definition of a "Lloyd's Plan of Operation"
 100.6000 Election to File a Combined Return
 100.6010 Procedure for Making the Election
 100.6020 Designated Agent for the Members
 100.6030 Combined Estimated Tax Payments
 100.6040 Claims for Credit of Overpayments
 100.6050 Liability for Combined Tax, Penalty and Interest
 100.6060 Combined Amended Returns
 100.6070 Computation of Combined Income and Tax
 100.6080 Definitions and Miscellaneous Provisions Relating to Combined Returns

SUBPART D: INCOME TAX WITHHOLDING

Section
 100.7000 Requirement of Withholding (ITTA Section 701)
 100.7010 Compensation Paid in this State (ITTA Section 701)
 100.7020 Transacting Business Within this State (ITTA Section 701)
 100.7030 Payments to Residents (ITTA Section 701)
 100.7040 Employer Registration (ITTA Section 701)
 100.7050 Computation of Amount Withheld (ITTA Section 701)
 100.7060 Additional Withholding (ITTA Section 701)
 100.7070 Voluntary Withholding (ITTA Section 701)
 100.7080 Correction of Underwithholding or Overwithholding (ITTA Section 701)
 100.7090 Reciprocal Agreement (ITTA Section 701)
 100.7100 Cross References
 100.7150 Withholding Exemption (ITTA Section 702)
 100.7200 Withholding Exemption Certificate (ITTA Section 702)
 100.7250 Exempt Withholding Under Reciprocal Agreements (ITTA Section 702)
 100.7300 Reports for Employee (ITTA Section 703)
 100.7350 Returns of Income Withheld from Wages (ITTA Section 704)
 100.7400 Quarterly Returns Filed on Annual Basis (ITTA Section 704)
 100.7450 Time for Filing Returns (ITTA Section 704)
 100.7500 Payment of Tax Deducted and Withheld (ITTA Section 704)
 100.7510 Correction of Underwithholding or Overwithholding (ITTA Section 704)
 100.7550 Requirement of Withholding-Personal Service Contracts (ITTA Section 708)
 100.7560 Contracts Indeterminate as to Amount (ITTA Section 708)
 100.7570 Series of Identical Contracts (ITTA Section 708)
 100.7580 Personal Service Contract (ITTA Section 708)

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100.7590 Presence Necessitated (ITTA Section 708)
 100.7600 Certification of Residence (ITTA Section 708)
 100.7610 Identities Specified in the Contract (ITTA Section 708)
 100.7620 Net Amount (ITTA Section 708)
 100.7630 Coordination with ITTA Section 701 (ITTA Section 708)
 100.7640 Requirement of Withholding-Prizes and Awards (ITTA Section 709)
 100.7650 Promoter (ITTA Section 709)
 100.7700 Non-Cash Prizes (ITTA Section 709)
 100.7750 Certification of Residence (ITTA Section 709)
 100.7800 Relative Performance (ITTA Section 709)

SUBPART E: DECLARATION AND PAYMENT OF ESTIMATED TAX

Section
 100.8300 Penalty for Underpayments of Estimated Tax-Exception for Payments Based on Prior Year's Liability-Rule for a Taxable Year Following the Taxable Year in which the Personal Property Tax Replacement Income Tax (PPRIT) Became Effective-Corporate Taxpayers (ITTA Section 802)
 100.8400 Penalty for Underpayment of Estimated Tax-Exception for Payments Based on the Prior Year's Facts-Change in the Personal Property Tax Replacement Income Tax (PPRIT) Rate for Corporations on January 1, 1981 (ITTA Section 802)

SUBPART F: STATEMENT OF PROCEDURAL RULES

Section
 100.9000 Introduction
 100.9005 Letter Ruling Procedures
 100.9010 General Income Tax Procedures (ITTA Section 901)
 100.9020 Taxpayer Representation and Practice Requirements
 100.9030 Collection Authority (ITTA Section 901)
 100.9040 Notice and Demand (ITTA Section 902)
 100.9050 Assessment (ITTA Section 903)
 100.9060 Deficiencies and Overpayments (ITTA Section 904)
 100.9061 Application of Tax Payments Within Unitary Business Groups (ITTA Section 603)
 100.9070 Limitations on Notices of Deficiency (ITTA Section 905)
 100.9080 Further Notices of Deficiency Restricted (ITTA Section 906)
 100.9090 Waiver of Restrictions on Assessments (ITTA Section 907)
 100.9100 Procedure on Protest (ITTA Section 908)
 100.9110 Credits and Refunds (ITTA Section 909)
 100.9120 Procedure on Denial of Claim for Refund (ITTA Section 910)
 100.9130 Limitations on Claims for Refund (ITTA Section 911)
 100.9140 Recovery of Erroneous Refund (ITTA Section 912)
 100.9150 Access to Books and Records (ITTA Section 913)
 100.9200 Conduct of Investigations and Hearings (ITTA Section 914)

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SUBPART G: JUDICIAL REVIEW

Section
100.9805 Administrative Review Law (ITTA Section 1201)

SUBPART H: DEFINITIONS AND RULES OF INTERPRETATION

Section
100.9900 Unitary Business Group Defined (ITTA Section 1501)

APPENDIX A: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

TABLE A
TABLE B
Example of Unitary Business Apportionment for Groups which
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 1-101 et seq.) and authorized by Section 1401 of the Illinois Income Tax Act (Ill. Rev. Stat. 1987, ch. 120, par. 14-1401).

SOURCE: Filed July 14, 1971, effective July 24, 1971, amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981, amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 111. Reg. _____, effective _____.

SUBPART B: ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section 100.3250 Resident (ITTA Section 301)

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a) General definition.

The term "resident" is defined in ITTA Section 1501(a)(20) to mean:

- 1) an individual who is in Illinois for other than a temporary or transitory purpose during the taxable year or who is domiciled in Illinois but is absent from Illinois for a temporary or transitory purpose during the taxable year;
- 2) the estate of a decedent who at his death was domiciled in Illinois;
- 3) a trust created by the will of a decedent who at his death was domiciled in Illinois; and
- 4) an irrevocable trust, the grantor of which was domiciled in Illinois at the time such trust became irrevocable. For the purpose of this subparagraph, a trust is considered irrevocable to the extent that the grantor is not treated as the owner thereof under 26 U.S.C. 671 through 678.

b) Individuals.

~~An individual may be a resident of Illinois although not domiciled in Illinois and, conversely, may be domiciled in Illinois without being a resident. The purpose of the general definition is to include in the category of individuals who are taxable on their entire net income, regardless of whether derived from sources within or without Illinois, all individuals who are physically present in Illinois enjoying the benefit of its government, except those individuals who are here temporarily, and to exclude from this category, all individuals, who, although domiciled in Illinois, are outside Illinois for other than temporary and transitory purposes, and, hence, do not obtain the benefit of Illinois government. If an individual acquires the status of a resident by virtue of being physically present in Illinois for other than temporary or transitory purposes, he remains a resident even though temporarily absent from Illinois. If, however, he leaves Illinois for other than temporary or transitory purposes, he thereupon ceases to be a resident. If an individual is domiciled in Illinois, he remains a resident unless he is outside Illinois for other than temporary or transitory purposes.~~

c) Temporary or transitory purposes.

Whether or not the purpose for which an individual is in Illinois will be considered temporary or transitory in character will depend upon the facts and circumstances of each particular case. It can be

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stated generally, however, that if an individual is simply passing through Illinois on his way to another state, or is here for a brief rest or vacation, or to complete a particular transaction, or perform a particular contract, or fulfill a particular engagement, which will require his presence in Illinois for but a short period, he is in Illinois for temporary or transitory purposes, and will not be a resident by virtue of his presence here. If, however, an individual is in Illinois to improve his health and his illness is of such a character as to require a relatively long or indefinite period to recuperate, or he is here for business purposes which will require a long or indefinite period to accomplish, or is employed in a position that may last permanently or indefinitely, or has retired from business and moved to Illinois with no definite intention of leaving shortly thereafter, he is in Illinois for other than temporary or transitory purposes, and, accordingly, is a resident taxable upon his entire net income even though he may ~~retain his domicile~~ also maintain an abode in some other state.

1) Example 1. X is domiciled in Fairbanks, Alaska, where he had lived for 50 years and had accumulated a large fortune. For medical reasons, X moves to Illinois where he now spends his entire time, except for yearly summer trips of about three or four months duration to Fairbanks. X maintains an abode in Illinois and still maintains, and occupies on visits there, his old abode in Fairbanks. Notwithstanding his ~~domicile~~ abode in Fairbanks, because his yearly sojourn in Illinois is not temporary or transitory, he is a resident of Illinois, and is taxable on his entire net income.

AGENCY NOTE: If in the foregoing example, the facts are reversed so that Illinois is the state of original domicile and Alaska is the state in which the person is present for the indicated periods and purposes, X is not a resident of Illinois within the meaning of the law, because he is absent from Illinois for other than temporary or transitory purposes.

2) Example 2. Until the summer of 1969, Y admitted domicile in Illinois. At that time, however, to avoid the Illinois income tax, Y declared himself to be domiciled in Nevada, where he had a summer home. Y moved his bank accounts to banks in Nevada, and each year thereafter spent about three or four months in Nevada. He continued to spend six or seven months of each year at his estate in Illinois, which he continued to maintain, and continued his social club and business connections in Illinois. The months not spent in Nevada or Illinois he spent traveling in other states. Y is a resident of Illinois and is taxable on his entire net income, for his sojourns in Illinois are not for temporary or transitory purposes.

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AGENCY NOTE: If in the foregoing two examples, the facts are reversed so that Illinois is the state of domicile and the other states are those in which the person is present for the indicated periods and purposes, X and Y are not residents of Illinois within the meaning of the law, because they are absent from Illinois for other than temporary or transitory purposes. If, in the foregoing example, the facts are reversed so that Nevada is the state of his original domicile, and the state in which the person is present for the indicated periods and purposes, Y is not a resident of Illinois within the meaning of the law because he is absent from Illinois for other than temporary or transitory purposes.

3) Example 3. B and C, husband and wife, domiciled in Minnesota where they maintain their family home, come to Illinois each November and stay here until the middle of March. Originally they rented an apartment or house for the duration of their stay here but three years ago they purchased a house here. The house is either rented or put in the charge of a caretaker from March to November. B has retired from active control of his Minnesota business but still keeps office space and nominal authority in it. He belongs to clubs in Minnesota, but to none in Illinois. He has no business interests in Illinois. C has little social life in Illinois, more in Minnesota, and has no relatives in Illinois. Neither B nor C is a resident of Illinois. The connection of each to Minnesota, the state of domicile, in each year is closer than it is to Illinois. Their presence here is for temporary or transitory purposes.

AGENCY NOTE: If, in the foregoing example, the facts are reversed so that Illinois is the state of domicile and B and C are visitors to Minnesota, B and C are residents of Illinois.

d) Domicile.

Domicile has been defined as the place where an individual has his true, fixed, permanent home and principal establishment, the place to which he intends to return whenever he is absent. It is the place in which an individual has voluntarily fixed the habitation of himself and family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some unexpected event shall occur to induce him to adopt some other permanent home. Another definition of "domicile" consistent with the above is the place where an individual has fixed his habitation and has a permanent residence without any present intention of permanently removing therefrom. An individual can at any one time have but one domicile. If an individual has acquired a domicile at one place, he retains that domicile until he acquires another else

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where. Thus, if an individual, who has acquired a domicile in California, for example, comes to Illinois for a rest or vacation or on business or for some other purpose, but intends either to return to California or to go elsewhere as soon as his purpose in Illinois is achieved, he retains his domicile in California and does not acquire a domicile in Illinois, even though he maintains a home in Illinois for himself and his family, has his family with him and remains in Illinois a considerable period of time. Likewise, an individual who is domiciled in Illinois and who leaves the state retains his Illinois domicile as long as he has the definite intention of returning to Illinois regardless of the length of time or the reasons why he is absent from the state. On the other hand, an individual, domiciled in California, who comes to Illinois with the intention of remaining indefinitely and with no fixed intention of returning to California loses his California domicile and acquires an Illinois domicile the moment he enters the state. Similarly, an individual domiciled in Illinois loses his Illinois domicile:

- 1) by locating elsewhere with the intention of establishing the new location as his domicile, and
- 2) by abandoning any intention of returning to Illinois.

e) Married women and minors.

1) Generally spouses living together have the same domicile---that of the husband. The domicile of a minor is ordinarily the same as the domicile of his father parents or guardians. If the father is deceased, the domicile of a minor is ordinarily the same as the domicile of his mother and vice versa. In either case, if the minor's parents are divorced, the domicile of the minor is the same as the domicile of the parent having custody.

2) Generally if a man is domiciled in Illinois his wife and minor children generally are likewise domiciled in Illinois. Even though a man is not domiciled in Illinois his wife and minor children are residents of this State if they are in Illinois for other than temporary or transitory purposes.

f) Presumption of residence and nonresidence.

If an individual spends in the aggregate more than nine months of any taxable year in Illinois it will be presumed that he is a resident of Illinois. The presumption is not conclusive but may be overcome by satisfactory evidence that he is in Illinois for temporary or transitory purposes only. There is no presumption that a person spending less than nine months in Illinois is a nonresident. On the contrary a person may be a resident even though not in

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the State during any portion of the year. Similarly if an individual who is domiciled in Illinois for the entire taxable year spends any part of his taxable year in Illinois it will be presumed that he is a resident of Illinois. This presumption again is not conclusive but may be overcome by satisfactory evidence that his presence in Illinois was for a temporary or transitory purpose only. There is no presumption that a person is a nonresident simply because he is absent from Illinois for more than a year on the contrary a person may be a resident even though absent for more than a year if the absence is for a temporary or transitory purpose only. For example a person may have entered in the Armed Forces for a limited period and be assigned to another State or States for the whole term of his enlistment except for a change of domicile. The person's absence would be for a temporary or transitory purpose and he would remain a resident of Illinois. (See paragraph (h) below.) An individual who is absent from Illinois for one year or more will be presumed to be a nonresident of Illinois notwithstanding an intention to return to Illinois. These presumptions are not conclusive, and may be overcome by other satisfactory evidence to the contrary.

g) Proof of residence or nonresidence.

1) The type and amount of proof that will be required in all cases to rebut or overcome a presumption of residence and to establish that an individual is a nonresident or nonresidence cannot be specified by a general regulation, but will depend largely on the circumstances of each particular case.

A) Ordinarily affidavits or testimony of an individual and of his employer or business associates that the individual was in Illinois for a rest or vacation, to complete a particular business transaction or to work for a limited period of time will be sufficient to overcome any presumption of residence here in the case of individuals who claim to be nonresidents by virtue of being outside Illinois for other than temporary or transitory purposes. Affidavits of friends and business associates as to the reasons for being outside the State should be submitted.

B) Affidavits that an individual votes in or files income tax returns as a resident of some other State although returned in determining one's domicile are otherwise of little value in determining one's residence. No weight shall be given to the fact that eligible contributions are made to charities either within or without Illinois.

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2)

If an individual is presumed under this regulation (86 Ill. Adm. Code 100.3250) to be a resident for any taxable year, he should file a return for that year even though he believes he was a nonresident who, as such, would not incur an Illinois income tax liability because he would have no income allocable or apportionable to Illinois. Such a return will enable the individual to avoid the possible imposition of penalties for failure to file under ITA Section 1001 should it later be determined that he was a resident for the taxable year. The return should be marked as a nonresident return, though Schedule NR is not required. The return should exhibit the computation of net income as though the individual were a resident. The line on the return provided for entering the tax liability should have the following notation: "No liability--nonresident." The return should be accompanied by a signed statement indicating which presumption of residence the individual was subject to and setting forth in detail the reasons why the individual believes he was a nonresident for the taxable year. The return should also be accompanied by any evidence such as certificates or affidavits that the individual is able to obtain showing that he was a nonresident for the taxable year. If the Department is not satisfied that the individual was a nonresident, it will so inform the individual and provide him with an opportunity to submit additional information supporting his contention. If the individual fails to submit additional information, or if the additional information submitted does not, when considered with the information appended to the return, overcome the presumption that the individual was a resident for the taxable year, the Department will issue a notice of deficiency asserting a liability against the individual on the following basis:

- A) that the individual is a resident for the taxable year, and
- B) that the individual's net income for the taxable year is:

i) the amount reflected, with appropriate mathematical error adjustments under ITA Section 903(a)(1), on the return filed by the individual under this paragraph or

ii) whatever other amount the Department has determined by an examination under ITA Section 904.

- 3) An individual who, for any taxable year, believes himself to be a nonresident, but who is presumed to be a resident under this regulation (86 Ill. Adm. Code 100.3250) may file his return (including a Schedule NR) as a nonresident if, as a

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nonresident, he incurs an Illinois income tax liability due to income allocated or apportioned to Illinois as a nonresident. However, the return should be accompanied by a signed statement indicating which presumption of residence the individual is subject to and setting forth in detail the reasons why the individual believes he was a nonresident for the taxable year. The return should also be accompanied by any evidence such as certificates or affidavits that the individual is able to obtain showing that he was a nonresident for the taxable year. If the Department is not satisfied that the individual was a nonresident, it will so inform the individual and provide him with an opportunity to submit additional information supporting his contention. If the individual fails to submit additional information, or if the additional information submitted does not, when considered with the information appended to the return, overcome the presumption that the individual was a resident for the taxable year, the Department will issue a notice of deficiency asserting a liability against the individual on the following basis:

- A) that the individual was a resident for the taxable year,
- B) that the individual's net income for the taxable year is:

i) his entire base income, as reflected on his return with appropriate mathematical error adjustments under ITA Section 903(a)(1), less the appropriate standard exemption prescribed by ITA Section 204 or

ii) his entire base income, as determined by the Department in an examination under ITA Section 904, less the appropriate standard exemption prescribed by ITA Section 204.

- h) Military personnel.

Under 50 U.S.C. App. 574, members of the U.S. Armed Forces (and commissioned officers of the U. S. Public Health Service) will not cease to be domiciled in Illinois solely by reason of their assignment to duty in other states for long periods; domiciliaries of other states will not become Illinois residents under the Act solely by reason of their presence in Illinois under military orders.

- i) Resident: Legal Definition: Usage.

The term "resident" is defined differently for different purposes. For example, an individual may be a "resident" for Illinois income tax purposes but not a "resident" eligible to vote (cf. Ill. Rev.

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Stats., ch. 120, para. 15-1501(a)(20) with Ill. Rev. Stats., ch. 46, para. 3-1 through 3-4). Similarly, a person may be a resident of Illinois for Illinois income tax purposes, and also a resident of another state for purposes of that state's income tax law (cf. Ill. Rev. Stats., ch. 120, para. 15-1501(a)(20) with Wis. Stats., ch. 71, sec. 71.01(1)).

(Source: Amended at Ill. Reg. effective)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Correctional Officer's Survivor Grant Program
- 2) Code citation: 23 Ill. Adm. Code 2731
- 3) Section numbers: 2731.10 Proposed Action: Amendment
2731.20
- 4) Statutory Authority: Implementing Section 30-14.1 and authorized by Section 30-15.4 of The School Code (Ill. Rev. Stat. 1987, ch. 122, par. 30-14.4 and 30-15.4).
- 5) A Complete Description of the Subjects and Issues Involved: ISAC proposes to update statutory citations and to improve certain nomenclature.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilnot Road
Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731
CORRECTIONAL OFFICER'S ~~SURVIVOR~~ GRANT PROGRAM

Section 2731.10 Summary and Purpose
2731.20 Correctional Officer's ~~Survivor~~ Grant Program

AUTHORITY: Implementing Section 30-14.4 and authorized by Section 30-15.4 of The School Code (111. Rev. Stat. 19839, ch. 122, pars. 30-14.4 and 30-15.4).

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 1731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 13 Ill. Reg. _____, effective _____.

Section 2731.10 Summary and Purpose

This Part establishes Rules which govern the Correctional Officer's ~~Survivor~~ Grant Program. Additional Rules and definitions are contained in the General Provisions Part at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

Section 2731.20 Correctional Officer's ~~Survivor~~ Grant Program

a) If a Correctional Officer employed by the Department of Corrections is killed or at least ninety percent disabled in the line of duty, the employee's spouse and children ~~survivors~~ may receive grant assistance under this Part.

b) ~~Survivors~~ Children are defined as a ~~spouse~~, the natural child, legally adopted child, or any child in the legal custody of the Correctional Officer at the time of death or disability.

c) Grants may be used at any postsecondary Institution approved for participation in the Monetary Award Program, provided the Applicant is Enrolled at least half-time and is maintaining Satisfactory Academic Progress. (See: 23 Ill. Adm. Code 2735.60.)

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d) Grant amounts shall be calculated in accordance with 111. Rev. Stat. 1984 ~~Supp.~~ 1989, ch. 122, par. 30-15.7(c)(1) and (2) or as later amended. Financial need is not a criterion.

e) Benefits are limited to the equivalent of eight semesters or twelve quarters of payment.

f) Applicants shall file a biographical application identifying the deceased/disabled Correctional Officer and will be required to submit a death certificate or proof of disability. Once eligibility has been established on behalf of all eligible survivors in the family, an annual application identifying the Institution to be attended is required.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

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- 1) The Heading of the Part: General Provisions
- 2) Code Citation: 23 Ill. Adm. Code 2700
- 3)

<u>Section Numbers:</u>	2700.20 2700.30 2700.40 2700.50 2700.70	<u>Proposed Action:</u>	Amendment Amendment Amendment Amendment Amendment
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- 4) Statutory Authority: Implementing the Higher Education Student Assistance Law (Ill. Rev. Stat. 1987, ch. 122, par. 30-15 et seq. as amended by P.A. 86-160, effective January 1, 1990), Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1070 et seq.); and authorized by Section 30-15.4(f) the Higher Education Student Assistance Law.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Part 2700 modify the definition of "Resident of Illinois" to address the unique situation of residents whose service in the U.S. armed forces and/or missionary organizations necessitates temporary absence from the State of Illinois. Additional revisions include an increase of the types of documentation acceptable to verify residency and other requested clarifications.

P.A. 86-160 requires recipients of an Illinois Veteran Grant (IVG) to sustain a minimum grade point average (GPA) as a condition of eligibility. Under the amended statute IVG recipients may not be required to comply with an Institution's satisfactory academic progress (SAP) policy (e.g., no degree completion requirements may be imposed as a condition of grant eligibility). ISAC proposes to delegate to Institutions the responsibility for establishing the minimum grade point average. Additionally, ISAC proposed that recipients of a National Guard/Naval Militia Grant also be held to a GPA requirement in lieu of a SAP requirement.

Section 2 of SB 632 provides that, effective July 1, 1989, individuals may not receive ISAC gift assistance benefits while incarcerated. This rule-making proposes to incorporate this provision into the Administrative Code. Should Governor Thompson veto this legislation, the proposed language will be deleted prior to adoption.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Does this proposed amendment contain incorporations by reference? No
 - 9) Are there any other amendments pending on this Part? No
 - 10) Statement of Statewide Policy Objectives: Not applicable
 - 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilnot Road
Deerfield, Illinois 60015
 - 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- The full text of the Proposed Amendment begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Electronic Data Exchanges
2700.60 Audits and Investigations
2700.70 Appeal Procedures

AUTHORITY: Implementing the Higher Education Student Assistance Law (111. Rev. Stat. 19829, ch. 122, par. 30-15 et seq.), the ~~Education Loan Purchase Program Law (111. Rev. Stat. 1987, ch. 122, par. 30-15.1a et seq.)~~, Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1070 et seq.); and authorized by Section 30-15.4(f) of the Higher Education Student Assistance Law (111. Rev. Stat. 1989, ch. 122, par. 30-15.4(f)).

SOURCE: Adopted at 9 111. Reg. 20783, effective January 1, 1986; amended at 11 111. Reg. 3157, effective January 29, 1987; amended at 11 111. Reg. 14099, effective August 10, 1987; amended at 12 111. Reg. 11510, effective July 1, 1988; amended at 13 111. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 111. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 111. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-158, effective July 1, 1989, at 13 111. Reg. 17854; amended at 13 111. Reg. _____, effective _____.

Section 2700.20 Definitions

"Academic Level" - The classification of a student as freshman, sophomore, junior, senior, or graduate student.

"Academic Year" - A twelve month period of time, normally from August or September of any year through August or September of the ensuing year.

"Applicant" - Any individual who requests ISAC consideration for a scholarship, grant, tuition waiver, or guaranteed loan.

"Citizen" - One who, under the Constitution and laws of the United States, is a native-born or naturalized citizen of the United States of America.

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"Commission" - The nine member Illinois Student Assistance Commission created by the Higher Education Student Assistance Law (111. Rev. Stat. 19829, ch. 122, par. 30-15.3).

"Concurrent Registration" - The contemporaneous maintenance of enrollment at two or more institutions.

"ED" - The acronym for the United States Department of Education.

"Eligible Non-citizen" - For the purposes of these Rules, eligible non-citizen is defined as non-citizens eligible for federal student assistance pursuant to Section 484 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1091) (19829) This definition does not include any later amendments or editions.

"Enrolled" - The status of a student who has completed the institution's registration requirements and is attending classes.

"Executive Director" - The chief executive officer of ISAC.

"Full-time Student" - An individual enrolled for twelve or more credit hours, for either a semester or quarter term.

"Gift Assistance" - Student assistance funds in the form of a scholarship, grant or tuition waiver.

"Good Moral Character" - An applicant is of good moral character if the applicant will benefit from postsecondary instruction and is allowed to enroll at an approved postsecondary institution.

"Guaranteed Loans" - ~~Student~~ Loan assistance through the Robert T. Stafford Loan Program, the PLUS Program, the Supplemental Loans for Students (SLS) Program, or the Consolidation Loan Program.

"Half-time Student" - An individual enrolled for six or more credit hours (but less than twelve credit hours) for either a semester or quarter term.

"Independent Student" - For the purposes of these Rules, independent student is defined by Section 480 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1087vv) (19829) A non-independent student is referred to as a dependent student. This definition does not include any later amendments or editions.

"Institution" - Unless otherwise qualified, any secondary or post-secondary educational organization which enrolls students who participate in ISAC programs.

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"ISAC" - The acronym for the Illinois Student Assistance Commission: the administrative agency created by Section 30-15.3 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1982, ch. 122, par. 30-15.3) to administer the State's student assistance programs.

"Mandatory Fees" - The charges assessed by an institution to each and every full-time student for each term. Application, graduation, laboratory, breakage and add/drop fees are specifically excluded. For the purposes of these Rules, Tuition is not a mandatory fee.

"Parent" - For the purpose of these Rules, "Parent" is defined at 34 CFR 668 (1982). This definition does not include any later amendments or editions.

"Pell Grant" - A gift assistance program administered by ED in accordance with Section 411 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1070a et seq.)

"Regular School Year" - An eight to nine month period of time which includes two semester terms or three quarter terms. The regular school year excludes summer terms and special terms. Programs that begin after April 15 and before August 16 are considered summer terms.

"Regulations" - Refers to regulations promulgated by ED and codified at 34 CFR 668.600 et seq.

"Resident of Illinois" -

1) A non-independent student with at least is a Resident of Illinois if a ~~one~~ Parent of the dependent-Applicant ~~who physically resides within the State of Illinois or~~

2) An Independent Student ~~who resides in~~ is a Resident of Illinois if the Applicant physically resides within the State of Illinois (at the time of application), and has so resided for a period of twelve continuous months immediately prior to September 1 of the Academic Year for which assistance is requested.

3) When an Applicant does not qualify as a Resident of Illinois under subsections (1) and (2) and the Applicant is a member of the U.S. Armed Forces or a Foreign Missionary, or is the dependent or the spouse of an individual who is a member of the U.S. Armed Forces or a Foreign Missionary, then the Applicant's residency shall be determined in accordance with this subsection.

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A) An Applicant who is a member of the U.S. armed forces will be a Resident of Illinois if the Applicant physically resided in Illinois immediately prior to entering the armed forces, returned (or plans to return) to Illinois within 6 months of the conclusion of enlistment and can demonstrate (pursuant to Section 2700.50(f)) that their domicile was the State of Illinois throughout such enlistment.

B) An Applicant who is a Foreign Missionary will be a Resident of Illinois if the Applicant physically resided in Illinois immediately prior to entering missionary service, returned (or plans to return) to Illinois upon the conclusion of missionary service, and can demonstrate (pursuant to Section 2700.50(f)) that their domicile was the State of Illinois throughout such missionary service.

C) The dependent-Applicant shall be a Resident of Illinois notwithstanding the Parent(s) temporary physical absence from Illinois provided the Parent(s) would be a Resident of Illinois under subsections (A) or (B).

D) The spouse-Applicant shall be a Resident of Illinois immediately upon physically occupying a dwelling within the State of Illinois provided the Applicant can demonstrate that his/her absence from the State was the result of residing with the spouse during enlistment or missionary service outside of Illinois and that the spouse-Applicant's domicile continues to be the State of Illinois.

E) A "Foreign Missionary" is defined as an individual who is assigned duty outside of the United States by an organization that engages in educational, philanthropic, humanitarian or altruistic works. The missionary organization must be exempt from the payment of federal taxes and must have been engaged in placing foreign missionaries for at least five years. Examples of such missionary organizations include, but are not limited to, the following: Peace Corps, VISTA, Evangelical Alliance Mission, etc.

"Rules" - The rules of the ISAC codified at 23 Ill. Adm. Code: Subtitle A, Chapter XIX.

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"Satisfactory Academic Progress" - An institutional policy which establishes minimum standards of academic performance. For purposes of ISAC-administered programs, the standards must be at least as stringent as those required by ED pursuant to Section 484 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1091)

"Term" - A unit of time for student attendance, including, but not limited to, a quarter or semester.

"Tuition" - The charge for instruction assessed by a postsecondary institution.

"Verification" - Procedures implemented by postsecondary institutions to verify the eligibility of applicants. The procedures are established by 34 CFR 668 et seq. (1987) and by these Rules. This definition does not include any later amendments or editions.

(Source: Amended at 13 Ill. Reg. _____, effective 1989)

Section 2700.30 General Institutional Eligibility Requirements

a) Program Participation Agreement

- 1) All Institutions shall execute an ISAC Program Participation Agreement in order to participate in ISAC Gift Assistance programs.
 - 2) The Program Participation Agreement shall identify ISAC programs under which the Institution's students may receive benefits.
 - 3) The Agreement shall include provisions requiring Institutions to comply with statutes, Rules and Regulations.
 - 4) The Program Participation Agreement may be modified or terminated in accordance with 23 Ill Adm. Code 2790.
- b) With respect to ISAC student assistance programs, Institutions shall develop and maintain procedures to verify the consistency and accuracy of information received from their Enrolled recipients.
- c) Institutions shall be subject to possible limitation, Suspension or Termination of eligibility for failure to comply with statutes, Regulations, Rules, or procedures. See: 23 Ill. Adm. Code 2790.

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d) Postsecondary Institutions which participate in Gift Assistance Programs shall annually submit to ISAC a copy of both their Satisfactory Academic Progress Policy and their Tuition Refund Policy. Public postsecondary Institutions shall also submit a copy of their policy establishing a minimum grade point average for recipients of grants pursuant to the Illinois National Guard/Naval Militia Grant Program and the Illinois Veteran Grant Program. Such submissions shall not be considered ISAC approval of such policies.

e) Postsecondary Institutions which participate in Gift Assistance Programs shall annually report their Tuition and fee charges to ISAC on or before June 1 preceding each Academic Year.

1) Failure to report any cost changes by the deadline will cause the prior year's charges to be used as part of the calculation process for student assistance benefits. Failure to report the assessment of a fee charge by the deadline will result in that fee charge being ineligible for payment under ISAC Gift Assistance Programs.

2) The report shall match specific fee charges with the Gift Assistance program(s) which may finance the fee. Such categorizations by the Institution shall not be considered ISAC approval.

3) The National Guard/Naval Militia Grant and the Illinois Veteran Grant (IVG) Programs may finance only a portion of certain fee charges. See: 23 Ill. Adm. Code 2730.10(c) and 2733.20(f).

A) Example: One fee finances both Tuition and text book expenses. Only the portion of the fee which is attributable to Tuition expenses may be financed with program benefits.

B) Institutions with such a fee shall certify what percentage of the fee is eligible to be financed with program benefits. Certification shall be performed by the Institution's chief fiscal officer.

f) Institutions shall submit additional reports, data and information to ISAC as may be requested. These inquiries include, but are not limited to, surveys, enrollment confirmations, and evaluation instruments.

g) Additional institutional eligibility requirements are contained in subsequent Parts of the ISAC Rules.

h) Postsecondary Institutions may apply to participate in ISAC Guaranteed Loan programs in accordance with 23 Ill. Adm. Code 2720.

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i) Postsecondary Institutions may apply to participate in ISAC Gift Assistance programs in accordance with this subsection.

1) The Commission approves participation in ISAC student assistance programs for an Institution rather than for specific academic programs within an Institution.

A) When requesting payment of benefits, Institutions shall certify (in accordance with ISAC Rules and/or Federal Regulations) whether enrollment in a particular academic program qualifies the announced recipient to claim ISAC administered benefits.

B) Students Enrolled in academic programs while incarcerated are ineligible for ISAC Gift Assistance benefits.

2) Prior to applying for participation in ISAC programs, the Institutional Applicant must have authority to operate a postsecondary Institution in Illinois. See: 23 Ill. Adm. Code 1030.

3) Institutional Applicants which are fully accredited by the North Central Association and have degree-granting authority shall be approved to participate in ISAC student assistance programs provided the Institution meets the requirements of subsections (1)(4)(C) & (D).

4) Institutional Applicants which do not meet the requirements of subsection (1)(3) shall be approved to participate in ISAC student assistance programs if the Institution has:

A) obtained candidate status for North Central accreditation.

B) applied for and is seeking degree-granting authority.

C) obtained at least three letters indicating the transferability of academic credit from the Applicant Institution to other Institutions. The letters must be from Institutions which are approved to participate in the Monetary Award Program (MAP) and are fully accredited by the North Central Association. See: 23 Ill. Adm. Code 2735.60.

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D) an adequate number of qualified persons to administer their responsibilities under ISAC Rules. In determining whether an Institution employs an adequate number of qualified persons, the Commission considers the number of students aided, the number of programs in which the Institution participates, the number of applications evaluated, the amount of funds administered, and the financial aid delivery system used by the Institution.

5) Once approved to participate in ISAC student assistance programs by the Commission, an Institution shall receive provisional eligibility for a minimum of five academic years.

A) On or before June 1 preceding each Academic Year, an Institution with provisional eligibility shall annually submit three letters indicating the transferability of academic credit to other Institutions for the following Academic Year. These letters must be from ISAC-approved MAP Institutions which are fully accredited by the North Central Association.

B) An Institution with provisional eligibility must petition the Commission for full eligibility. Full eligibility will be granted if the Institution meets the requirements of subsection (1)(3) and if there are no outstanding audit exceptions.

j) As a condition of eligibility for participation in ISAC student assistance programs, postsecondary Institutions shall have a valid Program Participation Agreement with ED. See: Section 487 of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1094).

(Source: Amended at 13 Ill. Reg. , effective)

Section 2700.40 General Applicant Eligibility Requirements

a) Except as otherwise provided by this subsection, an Applicant with a defaulted Guaranteed Loan or a defaulted Perkins Loan, (20 U.S.C.A. 1087aa) is not eligible for benefits under ISAC-administered programs.

1) Eligibility for future terms may be reinstated in accordance with the following provisions.

A) Eligibility for ISAC Guaranteed Loans will be reinstated when the debt has been paid in full.

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- 8) Eligibility for ISAC-administered Gift Assistance will be reinstated when the Applicant has maintained a satisfactory repayment record for at least six consecutive months. Factors to be considered by ISAC in evaluating the repayment record include: the amount of the debt, the amount of the payments received by ISAC, the employment status of the Applicant, and the frequency of the Applicant's contact with ISAC.
- 2) An Applicant for Illinois Veteran Grant (IVG) assistance (23 Ill. Adm. Code 2733) shall be permitted one Term of assistance during which a satisfactory repayment record, as defined by subsection (a)(1)(B), must be established. If such a repayment record is not established, additional assistance shall be denied until a satisfactory repayment record is established.
- b) No Applicant shall receive ISAC-administered assistance if the Applicant owes a refund for: ISAC-administered Gift Assistance, Pell Grant, or a Supplemental Educational Opportunity Grant (SEOG) [20 U.S.C.A. 1070(b)].
- c) An Applicant shall, upon request, provide documentation to establish and verify eligibility. See: Section 2700.50. Failure to supply adequate documentation shall result in the denial of student assistance benefits.
- d) An Applicant supplying fraudulent data shall be denied assistance and may also be subject to prosecution by the Illinois Attorney General, United States Department of Justice and/or an Illinois State's Attorney.
- e) All Applicants must submit their Social Security Number.
- f) Recipients who cease to be Residents of Illinois after notification of eligibility may complete the Academic Year with the assistance awarded.
- g) Unless otherwise provided, benefits under Gift Assistance programs are subject to the limits of dollars appropriated to ISAC by the Illinois General Assembly. Benefits under Gift Assistance programs are generally limited to the Regular School Year. If funding is available, assistance for summer Terms shall be awarded separately.
- h) When Gift Assistance eligibility is limited to a specified number of Term payments, the eligibility cap is calculated in accordance with this subsection.

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- 1) For each semester Term of full-time payment benefits, the recipient is assessed six eligibility units. For each quarter Term of full-time payment benefits, the recipient is assessed four eligibility units.
- 2) For each Term of half-time payment benefits, one-half of the above eligibility units is assessed.
- 3) Sixty eligibility units are the equivalent of payments for ten semester/fifteen quarters of full-time benefits.
- 4) Forty-eight eligibility units are the equivalent of payments for eight semesters/twelve quarters of full-time benefits.
- i) An Applicant shall submit Selective Service registration compliance documentation to the postsecondary Institution as required by 34 CFR 668.31 et seq.
- j) Am Except for grants pursuant to 23 Ill. Adm. Code 2730 and 23 Ill. Adm. Code 2733, an Applicant must be maintaining Satisfactory Academic Progress in accordance with the Institution's policy.
- (Source: Amended at 13 Ill. Reg. , effective)
- Section 2700.50 Determining Applicant Eligibility**
- a) The evaluation of Applicant eligibility is the responsibility of both the Institution and ISAC.
- b) No Applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate state and federal agencies in the process of reviewing application data. Such agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Immigration and Naturalization Service (INS), Illinois Department of Public Aid, Illinois Department of Revenue, and Illinois Department of Children and Family Services.
- c) When requesting payment for ISAC programs, the postsecondary Institution must certify that the applicants are eligible recipients. If an Institution subsequently determines a student is ineligible for the awarded assistance, the Institution must inform ISAC and submit the appropriate refund.

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- d) If an Institution erroneously certifies an Applicant to be eligible, ISAC will recover the erroneous payment from the Institution. Any student who obtained ISAC-administered funds by submitting inaccurate information to an Institution must tender restitution to the Institution to be eligible for ISAC assistance at that Institution.
- e) If an Applicant is selected for Verification in conjunction with federal student assistance, that Applicant shall also be verified for ISAC-administered programs. A selected Applicant must be verified for ISAC programs even if the Applicant is ineligible for federal student assistance.
- f) Because ED Verification procedures do not include procedures for verifying a student as a Resident of Illinois, the following provisions shall be followed by the Institutions.
- 1) Residency status shall be verified for each Applicant who is selected for Verification and meets one of the following criteria:
 - A) the Applicant has changed dependency status and became an Independent student; or
 - B) the Applicant has not been Enrolled in an ISAC-approved MAP Institution or an ISAC-approved Illinois High School (See Section 2700.30) during the preceding twelve months; or
 - C) the Institution has any information which indicates the Applicant may not be a Resident of Illinois.
 - 2) A valid income tax return, federal or state, may provide proof that an Applicant (or Parent) is an Illinois Resident as defined in Section 2700.20.
 - 3) If an Applicant (or Parent) is not required by law to file an income tax return, or if the tax return does not provide proof of Illinois residency, one or more of the documents listed below may provide proof of residency. For an Independent Student Applicant, the dates of issuance recorded on the documents must indicate the Applicant has resided in Illinois for the relevant twelve continuous months.

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- A) Illinois High School transcript;
 - B) Illinois Driver's License;
 - C) Utility or rent bills in the Applicant's (or Parent's) name;
 - D) Illinois Auto Registration card;
 - E) Residential lease;
 - F) Wage and Tax Statements (IRS Form W-2);
 - G) Statement of benefits history from the Illinois Department of Public Aid
 - H) State of Illinois Identification Card issued by the Secretary of State.
- 4) If an Applicant is a Resident of Illinois, but the Institution cannot document this fact in accordance with subsections (f)(2) and (3), the Applicant or the Institution may verify residency through the ISAC's appeal process. (See: Section 2700.70.)
- g) Institutions may request first Term payment even though Verification is not yet complete. If, after Verification, an ISAC payment adjustment is appropriate, Institutions must submit the appropriate refund. If Verification is not completed prior to the conclusion of the Regular School Year, the Institution shall return the first Term payment to ISAC. For other than the first Term of eligibility in an Academic Year, the Verification process must be completed before the Institution may request payment.
- h) When an Institution adjusts an Applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1087kk et seq.), the Institution shall retain documentation which demonstrates the appropriateness of such adjustment.
- (Source: Amended at 13 Ill. Reg. , effective)
- Section 2700.70 Appeal Procedures**
- a) Complainants (including Applicants, Institutions and lenders) may appeal an ISAC administrative decision in accordance with this Section. Complainants must submit their appeal within 60 days of the date of an administrative decision by ISAC. If a complainant fails to pursue an appeal within 60 days of an administrative decision, including administrative decisions rendered under Subsections (d) and (e), the complainant forfeits all appeal rights.
- b) All appeals shall be submitted in writing, must specifically invoke ISAC's appeal process and must indicate the specific issue(s) to be reviewed. Each complainant shall be sent a written response within fifteen working days of receipt of the appeal.

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- 1) A complainant may submit any evidence which the complainant believes relevant to the issue appealed. If the ISAC is not able to make a determination based on the information provided, the complainant shall be requested to supply additional written materials related to the issue (e.g., income tax returns, ISAC correspondence).
- 2) The standard of review is whether, based on the manifest weight of the evidence, the administrative decision(s) being appealed is consistent with statutes, Rules and Regulations relevant to the issue appealed.
- c) At the complainant's discretion, a complainant may be represented by legal counsel. Except for appeals pursuant to Section 2700.50 (f)(4), Applicant appeals shall not be written or submitted by a lender or institution. A lender or institution may advise an Applicant on appeal issues and opportunities.
- d) The complainant shall submit an appeal directly to the appropriate ISAC Manager. An appeal may be pursued through the following appropriate sequence of ISAC's administrative levels after an initial appeal to an ISAC Manager: culminating with an appeal to the Executive Director. (See: 2 Ill. Adm. Code 5375.Appendix A.)
 - 1) ~~Division Director;~~
 - 2) ~~Deputy Executive Director;~~
 - 3) ~~Executive Director.~~
- e) Adjudicatory hearings are available for complainants who have first used the procedures of subsection (d). A hearing shall be requested, in writing, within 60 days of the date of the Executive Director's appeal decision.
 - 1) Within 30 days of the receipt of a hearing request, the Executive Director shall schedule a hearing. The hearing shall be conducted in accordance with 23 Ill. Adm. Code 2790.60(d)-(f).
 - 2) The hearing officer shall issue a recommended decision in accordance with and subject to 23 Ill. Adm. Code 2790.70.
- f) Commission dispositions, as provided for by 23 Ill. Adm. Code 2790.70(c), are considered final administrative decisions as defined by the Administrative Review Law. (Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.) The complainant shall be sent written notification of the final administrative decision within ten working days of the Commission's disposition of the appeal.

(Source: Amended at 13 Ill. Reg. , effective)

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- 1) The Heading of the Part: Guaranteed Loan Programs
- 2) Code Citation: 23 Ill. Adm. Code 2720
- 3) Section Numbers: 2720.10
2720.30
2720.40
2720.50
2720.70
2720.120
Proposed Action: Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
- 4) Statutory Authority: Implementing Sections 30-15.10 et seq. of the Higher Education Student Assistance Law (111. Rev. Stat. 1987, ch. 122, pars. 30-15.10 et seq. as amended by P.A. 86-163 and P.A. 86-170, effective July 1, 1989), Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.); and authorized by Section 30-15.4(f) of the Higher Education Student Assistance Law (111. Rev. Stat. 1987, ch. 122, par. 30-15.4(f)).
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments provide requested clarifications of existing rules and the deletion of provisions that paraphrase Federal Regulations. The proposed amendment to §2720.40(f)(2) simplifies the deadline for the sale of certain renewal loans as requested by ISAC clients. The proposed amendments to §2720.120 clarify the distinction between ISAC's two purchase programs. To ensure the purchase programs remain financially viable independent of tax resources, ISAC proposes revisions to the purchase criteria including a \$2,000 average loan size requirement for the Original Contract Program.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part?
- 10) Statement of Statewide Policy Objectives: Not applicable

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11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilmot Road
Deerfield, Illinois 60015

12) Initial Regulatory Flexibility Analysis: Proprietary institutions which participate in the guaranteed loan programs may be small businesses. The proposed amendments do not increase the reporting and bookkeeping procedures presently required of the proprietary institutions. The Business Assistance Office of the Department of Commerce and Community Affairs was advised of the proposed amendments in a letter dated November 13, 1989.

The full text of the Proposed Amendment begins on the following page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720

GUARANTEED LOAN PROGRAMS

SUBPART A: Loan Guarantee Programs: THE ROBERT T. STAFFORD LOAN PROGRAM, PLUS PROGRAM, SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM AND CONSOLIDATION LOAN PROGRAM

Section	Summary and Purpose
2720.5	Definitions
2720.6	Eligibility for ISAC Loan Guarantees
2720.10	Lender Eligibility
2720.20	Institutional Eligibility
2720.30	Procedures for Obtaining a Guaranteed Loan
2720.40	Procedures for Disbursement and Repayment
2720.50	Consolidation Loan/Unloan Program
2720.55	Preclaim Assistance
2720.60	Reimbursement Procedures
2720.70	Student Insurance Premium
2720.80	

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section	Summary and Purpose
2720.105	IDAPP Eligible Loans
2720.120	IDAPP Eligible Lenders
2720.130	

SUBPART C: ISAC ORIGINATED LOANS

Section	ISAC Originated Consolidation Loans
2720.200	

APPENDIX A Required Activities of Educational Lenders

AUTHORITY: Implementing Sections 30-15.10 et seq. of the Higher Education Student Assistance Law (111. Rev. Stat. 1987, ch. 122, pars. 30-15.10 et seq. the Education Loan Purchase Program Law (111. Rev. Stat. 1987, ch. 122, pars. 30-15.14a et seq. as amended by P.A. 85-1398, effective July 1, 1988), Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.); and authorized by Section 30-15.4(f) of the Higher Education Student Assistance Law (111. Rev. Stat. 1987, ch. 122, par. 30-15.4(f)).

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SOURCE: Adopted at 3 Ill. Reg. 4, p.38, effective January 26, 1979; amended at 5 Ill. Reg. 8698, effective August 17, 1981; emergency rule and emergency repealer at 6 Ill. Reg. 7558, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15254, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 13309; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 18, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 29, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 18370, effective October 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20989, effective January 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 15221, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2720 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17855; amended at 13 Ill. Reg. _____, effective _____.

SUBPART A: Loan Guarantee Programs: THE ROBERT T. STAFFORD LOAN PROGRAM, PLUS PROGRAM, SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM AND CONSOLIDATION LOAN PROGRAM

Section 2720.10 Eligibility for ISAC Loan Guarantees

- a) Applicants may apply for a loan guarantee Stafford loan by submitting either an ISSC ISAC approved application form, ~~or by submitting one of the applications specified at 23 Ill. Adm. Code 1725.30. When applying for a PLUS or SLS loan guarantee, the Applicant shall utilize the PLUS or SLS application form. Applications are available from lenders, institutions, or ISSC.~~
- b) ~~The student and borrower(s) must be citizens or eligible non-citizens. Eligibility requirements for guaranteed loans are established by Federal Regulations.~~
- c) The student must be Enrolled, or accepted for enrollment, at an approved postsecondary institution which has certified the Applicant for a guaranteed loan. ~~on at least a half-time basis. If the student is attending an approved foreign institution, the student and borrower(s) must be citizens of the United States.~~

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- d) An Applicant shall not be disqualified for a loan guarantee by ISAC provided the lender, the institution, the student, and the borrower meet the eligibility requirements of Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.), Federal Regulations and of this Part Subpart.
- e) No loan guarantee shall be issued to ~~any student~~ if such loan would exceed the annual or aggregate amount permitted such borrower for the Academic Year, as specified by Section 428 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1078)
- f) The institution shall compute a recommended loan amount for each Applicant. No guaranteed loan may exceed the institution's recommended amount.

- 1) When certifying loan eligibility for an Academic Year which will span Academic levels, the institution's recommended loan amount shall not exceed the maximum permitted for the Applicant's Academic level at the time of certification.

Example: A student desires a Stafford loan for a two semester period of enrollment beginning 8/20/87 and concluding 5/15/88. During the fall 1987 Term the student will be a sophomore and during the spring 1988 Term the student anticipates attaining the Academic level of junior. Prior to the borrower's successful completion of the fall Term, the institution's recommended loan amount shall not exceed the \$2,625 loan permitted sophomore borrowers.

- 2) Should a student borrow in excess of the permitted loan maximums, the institution shall terminate the student's eligibility for federal financial assistance for that Academic Year. See Section 484 of the Higher Education Act of 1965, as amended. (20 U.S.C.A. 1091)
 - g) ~~Students Enrolled in a secondary institution may not utilize Guaranteed loan proceeds to enroll concurrently in a vocational institution.~~
- (Source: Amended at 13 Ill. Reg. _____, effective _____)

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Section 2720.30 Institutional Eligibility

- a) Institutional eligibility requirements are specified in Federal Regulations. Eligible postsecondary institutions include universities, colleges, graduate schools, schools of nursing, business, trade, technical, and vocational schools. Correspondence institutions/programs are not eligible.
- b) Institutions must have executed a Program Participation Agreement with ED in order to participate in ISAC's Guaranteed Loan Programs. See: 34 CFR 668.12 et seq.
- ~~b) Borrower(s) shall be responsible for the full amount of the loan if an institution declares bankruptcy or ceases operation.~~
- c) When an approved institution has a change of ownership, location, or name as defined by Federal Regulations, the institution's Program Participation Agreement is terminated. The institution may have eligibility reinstated by the execution of new Program Participation Agreements with ED. See e.g.: 34 CFR 600.30 et seq.
- d) An institution may not engage in loan origination activities. This prohibition shall not apply if the institution has an ED approved Origination Agreement, provided the agreement is on file with ISAC. See: 34 CFR 682.601.
- e) Approved institutions shall provide ISAC with the current enrollment status of students the institution certified as eligible borrowers. ISSC shall request enrollment data in accordance with a schedule published on an annual basis.
- f) Approved institutions must demonstrate the requisite administrative capability and financial responsibility, as defined by Federal Regulations. See, e.g.: 34 CFR 668.14 et seq.
- ~~g) Vocational institutions shall annually submit graduate employment data to ISSC, as required by 34 CFR 668.44.~~
- (Source: Amended at 13 Ill. Reg. , effective)
- Section 2720.40 Procedures for Obtaining a Guaranteed Loan
- a) Borrowers who are eligible for a loan guarantee in accordance with Section 2720.10 are issued a notice of guarantee and an application/promissory note form. All promissory notes must be in the form furnished by ISAC or an ISAC approved facsimile. No alteration or substitution may be used.
- b) All loans are made at the lender's discretion. When a lender rejects a borrower's application/promissory note, the lender shall issue a Notice of Non-acceptance form to the borrower.

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- 1) Should an Applicant be unable to secure an ISAC Guaranteed Loan from an approved Lender, the ISAC shall refer the Applicant to a Lender who has indicated a willingness to issue a Guaranteed Loan.
- 2) An Applicant must submit to ISAC a written request for a Lender referral. The request must include copies of three written notifications from approved Lenders that indicate a refusal to approve a loan application.
- c) The availability of an ISAC Guaranteed Loan shall not be conditioned upon the purchase of credit life, life, accident, health, or other forms of insurance.
- d) No Stafford loan of less than \$150 shall be made by a Lender. A minimum loan amount of \$500 applies to PLUS and SLS. See Section 2720.10(f) for loan maximums.
- e) The application/promissory note must be signed in ink. Signature stamps shall not be used.
- f) Within any one of ISAC's Guaranteed Loan programs, all of a borrower's outstanding loans must be held by the same Lender or Holder.
- 1) If a Lender receives an application/promissory note, and the borrower has outstanding ISAC Guaranteed Loan(s) with a prior Lender, the following provisions apply:
- A) A Stafford loan will be guaranteed if the Lender has purchased all outstanding Stafford loans.
- B) A PLUS loan will be guaranteed if the Lender has purchased all outstanding PLUS loans made on behalf of the same student.
- C) A SLS loan issued by a commercial Lender will be guaranteed if the Lender has purchased all outstanding SLS loans made by another commercial Lender.
- D) A SLS loan issued by an educational Lender will be guaranteed if the Lender is an educational institution at which the borrower is Enrolled and the borrower has not previously obtained a SLS loan through a commercial Lender.

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- 2) If the Lender has sold the Applicant's previous ISAC Guaranteed Loan(s) to an approved Holder, a subsequent loan will be guaranteed provided:

- A) the renewal loan is issued by the same Lender that issued the previous loans; and
- B) the Lender sells the renewal loan to the Holder prior to ~~The Lender must sell the loan by the ending loan term date, or May 1 following the guarantee date, whichever is earlier.~~ Failure to sell the renewal loan by the deadline shall result in the loss of guarantee.

- 3) The requirements of subsection (f)(1) shall not apply if:

- A) the outstanding loans are held by a Lender which has been either declared insolvent by a regulatory agency or has terminated its Agreement.
- B) the borrower informs ISAC, in writing, that he/she is dissatisfied with the previous Lender's performance and requests that subsequent loans be issued by a different Lender.

g) Co-maker and Co-signers

- 1) Where two Parents or legal guardians reside in the same household, and the Parent or guardian applying for a PLUS loan guarantee is not the larger wage earner of the two, the Parent or legal guardian who is the larger wage earner must co-make the loan. This requirement shall not apply if, under current criteria employed by the Lender, the Applicant would be considered eligible for an unsecured loan of the same amount from such Institution. The Lender shall not require a co-maker on a SLS loan. At the Lender's option, a co-signer may be required on any PLUS or SLS loan.

- 2) The Lender shall not require a co-maker or co-signer on a Stafford Loan or accept security for payment thereof.

- h) Lenders shall obtain the names and addresses of at least two references from each loan Applicant. Lenders shall submit the reference data to ISAC when requesting ISSC reimbursement pursuant to Section 2720.70.

(Source: Amended at 13 Ill. Reg. , effective)

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Section 2720.50 Procedures for Disbursement and Repayment

- a) Disbursement and repayment procedures are specified in Federal Regulations.

- b) Prior to Disbursement, the borrower(s) shall execute a completed application/promissory note(s) for the principal and interest on the loans. The Lender shall retain the original copy of the application/promissory note.

- c) The Lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower(s)' behalf. The Lender shall not collect or attempt to collect from the borrower(s) or ISAC any portion of the interest on the loan which is payable by ED.

- d) Except for loans pursuant to Section 2720.55, the Lender shall not disburse the proceeds of any loan on the borrower(s)' behalf unless and until the Lender shall have received from ISAC evidence of a guarantee. The Lender shall inform ISAC of all loans through submissions of the Student Status Confirmation Report.

- e) Stafford loan and SLS loan proceeds shall be transmitted directly to the Institution. PLUS loan proceeds shall be delivered to the borrower by the Lender. The Lender shall notify the educational Institution of all PLUS Disbursements.

- 1) The student loan check shall be payable to the borrower unless the borrower has authorized, in writing, a co-payable loan check.

- 2) If the proceeds have not been disbursed to the borrower within ninety days after the conclusion of the Term, ISAC approval is required prior to Disbursement. Factors to be considered by ISAC in evaluating the borrower's Disbursement request include whether the delay in Disbursement was avoidable by the borrower, whether the borrower was familiar with the loan application process through prior ISAC borrowing, whether the borrower had difficulty locating a Lender willing to issue a loan, and other extenuating circumstances (e.g., death in the borrower's family).

- 3) If the borrower has withdrawn from enrollment, in accordance with and Federal Regulations require the Institution ~~must~~ to submit a refund to the Lender, ~~See: e.g., 34 CFR 682.607,~~ the refund shall be in the form of a check payable to the Lender on behalf of the borrower. The Institution shall provide simultaneous written notice to the student of the refund.

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- A) If the Institution fails to issue a timely refund, as defined by Federal Regulations, the Institution shall pay penalty interest.
- B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.
- C) The penalty interest shall be paid to the Lender or subsequent Holder.
- f) The borrower(s) shall have the right to prepay without penalty the whole or any part of a loan guaranteed hereunder. If less than all outstanding notes are prepaid, the notes shall be prepaid in the order of their execution dates commencing with the earliest. Any Unless the borrower requests otherwise, in writing, any prepayment made thereon shall be credited wholly to the principal.
- g) The Lender or Holder shall send a repayment schedule and disclosure statement to the Stafford borrower(s) no later than 30 days prior to the expiration of the borrower(s)' grace period. The Lender or Holder shall send a repayment schedule and disclosure statement to a PLUS, SLS and unloan borrower no later than 30 days prior to the due date of the first payment. The borrower(s)' notes are incorporated by reference into the signed repayment schedule and disclosure statement.
- 1) On or before the first payment date defined in the note(s), the borrower shall begin making installment payments pursuant to said schedule. The note maturity date will be calculated in accordance with the requirements of Federal Regulations.
- 2) The maturity date identified in the most recent note updates the maturity date of all previous notes, provided the borrower has not previously entered repayment.
- 3) The borrower(s) may defer their repayment obligations in accordance with this Section.
- h) The Lender or Holder shall notify ISAC of payment in full or prepayment in full through submissions of the Student Status Confirmation Report.
- i) In accordance with Federal Regulations, the Lender or Holder may extend the maturity date of any note. If the Lender or Holder agrees to extend said note, then the borrower(s) must execute a forbearance agreement. A forbearance agreement may be approved for a period of up to one year at a time.

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- j) Borrowers are entitled to deferments, which extend the maturity date of any note(s), under conditions established by Federal Regulations. The borrower(s) shall be responsible for submitting to the Lender a completed deferment ~~(extension)~~ agreement.
- k) ISAC provides Lenders with the forms necessary for servicing their Guaranteed Loan portfolio (e.g., deferment forms, forbearance forms). With advance ISAC approval, Lenders may use non-ISAC forms. ISAC shall approve the use of alternative forms provided the alternative form is ED-approved and is compatible with ISAC's data processing requirements.
- 1) No note shall be sold or transferred by the Lender except to an ISAC-approved Lender, an ISAC-approved Holder, or ISAC.
- (Source: Amended at 13 Ill. Reg. , effective)
- Section 2720.70 Reimbursement Procedures
- a) If a borrower dies or becomes permanently and totally disabled, the Lender or Holder shall request reimbursement from ISAC within 60 days of the Lender's receipt of the borrower's loan cancellation request. Requests for default reimbursement must be submitted to the ISAC no earlier than 180 days after the first date of delinquency and no later than 270 days after the date of delinquency. The Lender or Holder shall be reimbursed, in accordance with Federal Regulations, for 100% of the ~~outstanding principal balance and the interest which accrued from the default date to fifteen (15) days after the Illinois State Voucher is completed.~~ On PLUS loans all co-makers must meet the default criteria contained in Federal Regulations.
- b) The Lender or Holder must request ISAC reimbursement for bankruptcy claim in accordance with Federal Regulations. See, e.g.: 34 CFR 682.402. The request for reimbursement must be submitted within 30 days of the Lender's receipt of notice that the loan is eligible for reimbursement. A copy of the restraining order and the appropriate papers should be included. On PLUS loans, all co-makers must meet the bankruptcy criteria.
- c) Prior to reimbursement, the Lender or Holder must certify compliance with federal due diligence requirements and subsection (f). Prior to reimbursement, the Lender must have remitted the insurance premium established by Section 2720.80.

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- d) The lender or Holder shall forward to ISAC any payments made by or on behalf of the borrowers after default reimbursement and shall advise ISAC of any subsequent information received concerning the student. Prior to reimbursement, all original notes must be properly endorsed and submitted to ISAC. If the notes have been erroneously stamped "Paid in Full", or lost, the Lender or Holder shall execute a hold harmless agreement with ISAC.
- e) No fee or charge, other than the maximum interest rate prescribed by ED, including the student insurance premium, and the federal loan origination fee, shall be contracted for or received by the Lender, except that a delinquency charge is permitted on each installment in default for a period of not less than ten days. ~~The amount of the delinquency charge cannot exceed five percent (5%) of the delinquent installment, or five dollars (\$5.00), whichever is less.~~
- f) The Lender or Holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by Federal Regulations. See, e.g., 34 CFR 682.411.
- g) ISAC shall collect the outstanding amount on the Guaranteed loan. If the borrower refuses to retire the debt, ISAC shall litigate or assign the account to a licensed collection agency.
- h) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.
- 1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.
- 2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. See: 23 Ill. Adm. Code 2700.40(a)(2).
- 3) ISAC shall notify a borrower fifteen days prior to the first offset. ISAC shall not provide additional notice of subsequent offsets for the same debt. Should the borrower dispute the debt, an appeal must be filed within fifteen days of the date of the notice. Appeals will be processed in accordance with 23 Ill. Adm. Code 2700.70. If the requested relief is granted, the funds offset shall be returned to the borrower.
- 4) Funds eligible to be offset include, but are not limited to, state income tax refunds and the wages of state employees.

(Source: Amended at 13 Ill. Reg. , effective)

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NOTICE OF PROPOSED AMENDMENTS

Section 2720.120 IDAPP Eligible Loans

- ~~a) ISAC will purchase non-delinquent loans which are guaranteed pursuant to this Part.~~
- ~~ab) Original Contract Program~~
- 1) ISAC will ~~also~~ purchase Stafford loans which are 30-90 days delinquent on installments of principal or interest ~~or loans~~ and Stafford Loans for which the borrower has failed to meet other contractual obligations. Loans in default are not eligible for purchase and should be submitted for reimbursement in accordance with Section 2720.70.
- ~~at the lender's request, ISAC will~~ Under this program ISAC will also purchase Stafford loans in deferred status because of the borrower's unemployment or which have been granted a forbearance by the Lender.
- 2) All accounts submitted for purchase must have an annual cumulative average loan size of at least \$2,000.
- 3) The Lender must be in compliance with Federal Regulations and ISAC Rules up to the date of the sale. ISAC will decline to purchase any account if the Lender can not demonstrate the loan was originated and serviced in accordance with all program requirements.
- c) If a Lender requests ISAC to purchase an account that was previously rejected for purchase by a different secondary market, ISAC will purchase the account only if the loan is current (non-delinquent) and has an outstanding balance of at least \$3,500.
- ~~ed)~~
- In cases where a borrower's loan is held by ISAC and the borrower requests a renewal loan, and where such borrower has established a satisfactory relationship with ISAC, the original Lender must agree to make the renewal loan to the borrower with the understanding that such loan will be immediately purchased by ISAC to consolidate the student's indebtedness. See: Section 2720.40(f)(2).

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NOTICE OF PROPOSED AMENDMENTSfe) Default Prevention Program

- 1) In cases where a Lender executes a contract authorizing participation in the Default Prevention Program, ISAC will purchase the additional types of Guaranteed Loans ~~loans~~ specified in subsection (9e)(2). All accounts submitted for purchase must have an annual cumulative average loan size of at least \$3,500.
- 2) ISAC will purchase the following additional types of ~~loans~~ Guaranteed Loans:
 - A) all deferred loans other than unemployment deferments;
 - B) loans from borrowers who have moved;
 - C) loans from borrowers who have failed to respond to the Lender's written inquiry;
 - D) loans from graduate student borrowers, and
 - E) loans that do not fall under any preceding criteria classification.

gf) Upon the sale of an account to ISAC, the Lender shall report the transfer of ownership to the credit reporting agency utilized by the Lender. The Lender shall not adverse the borrower's credit rating.

(Source: Amended at 13 Ill. Reg. , effective)

- 1) The Heading of the Part: ILLINOIS NATIONAL GUARD/NAVAL MILITIA GRANT
- 2) Code Citation: 23 Ill. Adm. Code 2730
- 3) Section Numbers: 2730.10 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by The National Guard Scholarship Act (Ill. Rev. Stat. 1987, ch. 129, pars. 421 et seq.)
- 5) A Complete Description of the Subjects and Issues Involved: ISAC proposes that grant recipients be required to maintain a minimum grade point average in lieu of complying with institution standards of satisfactory academic progress. Refer to the Notice of Proposed amendments for 23 Ill. Adm. Code 2700 which is published in this edition of the Illinois Register.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilnot Road
Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730
ILLINOIS NATIONAL GUARD/NAVAL MILITIA GRANT

Section
2730.5 Summary and Purpose
2730.10 Applicant Eligibility
2730.20 Program Procedures

AUTHORITY: Implementing and authorized by The National Guard Scholarship Act (111. Rev. Stat. 19829, ch. 129, pars. 421 et seq.)

SOURCE: Adopted at 3 111. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 5 111. Reg. 8239, effective June 30, 1982; new rules adopted at 6 111. Reg. 8413, effective June 30, 1982; codified at 7 111. Reg. 10877; amended at 8 111. Reg. 17016, effective September 5, 1984; amended at 9 111. Reg. 20827, effective January 1, 1986; amended at 11 111. Reg. 3202, effective January 29, 1987; amended at 12 111. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 111. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 111. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 111. Reg. 17857; amended at 13 111. Reg. _____, effective _____.

Section 2730.10 Applicant Eligibility

- a) Students must file an application annually indicating the Institution to be attended. Application deadlines are specified in §subsection 2730.20(d).

1) Eligible Applicants will receive an Eligibility letter from ISSC each Academic Year following the filing of the application. This letter must be delivered to ~~ISSC representative of the~~ educational Institution at which the student is Enrolled. Ineligible Applicants will receive a written notification from ISSC of their ineligibility to receive program benefits.

2) ISSC consults with the Illinois Department of Military Affairs in the process of reviewing application data.

- b) Applicants must be ~~on active duty and must~~ have served for at least one year in the Illinois National Guard or Naval Militia. Eligibility is available to any enlisted person or any company grade officer including warrant officers, first and second lieutenants, and captains in the Army and Air National Guard, and ensigns, lieutenants junior grade and lieutenants in the Naval Militia.

ILLINOIS STUDENT ASSISTANCE COMMISSION

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- c) Fees exempted by this program are limited to Tuition, registration, graduation, and general activity fees. Fees for which the recipient remains financially responsible include: book rental, laboratory, air flight, health insurance, room and board, parking, union, supply, hospital, athletic, and proficiency exams.

d) Recipients must maintain ~~Satisfactory Academic Progress~~ an acceptable grade point average as determined by the Institution pursuant to a published policy.

- e) Benefits are applicable to both undergraduate and graduate enrollment. There is no minimum credit-hour enrollment requirement.
- f) Benefits may be used at Illinois public senior universities and at any Illinois public community college.

(Source: Amended at 13 111. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

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- 1) The Heading of the Part: Illinois Veteran Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2733
- 3) Section Numbers: 2733.20
2733.30 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 30-15.7d and authorized by Section 30-15.4 of The Higher Education Student Assistance Law (Ill. Rev. Stat., 1987, ch. 122, pars. 30-15.4 and 30-15.7d, as amended by P.A. 86-160, effective January 1, 1990).
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 86-160 raised the eligibility ceiling to 16 (formerly 14) years after the first term of IVG benefits and substitutes a grade point average requirement in lieu of satisfactory academic progress requirement for IVG recipients. (Refer to the Notice of Proposed Amendments for 23 Ill. Adm. Code 2700 which is published in this edition of the Illinois Register.) This rule-making implements this public act and provides requested clarifications.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilmot Road
Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733
ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section
2733.10 Summary and Purpose
2733.20 Grant Eligibility
2733.30 Program Procedures

AUTHORITY: Implementing Section 30-15.7d and authorized by Section 30-15.4 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1985, ch. 122, pars. 30-15.4 and 30-15.7d), as amended by P.A. 84-1244 effective July 29, 1986.

SOURCE: Emergency rule adopted at 10 Ill. Reg. 14322, effective August 20, 1986 for a maximum of 150 days; adopted at 11 Ill. Reg. 3207, effective January 29, 1987; amended at 12 Ill. Reg. 15356, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1733 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2733 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17858; amended at 13 Ill. Reg. _____, effective _____.

Section 2733.20 Grant Eligibility

- a) A recipient must have been designated a Qualified Veteran.
See: Section 2733.30(a).
- b) A recipient must reside in Illinois unless the recipient is a member of the Armed Forces at the time of enrollment.
- c) A recipient must maintain Satisfactory Academic Progress an acceptable grade point average as determined by the Institution pursuant to a published policy.
- d) Benefits are applicable to both undergraduate and graduate enrollment. There is no minimum credit hour enrollment requirements and benefits are applicable for non-credit courses.
- e) Benefits may be used to Enroll at Illinois public senior universities and Illinois public community colleges.

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- f) Fees Exempted by the IVG
- 1) The recipient is exempted from paying the following most fees including:
 - A) Tuition and other instructional fees;
 - B) activity, air flight and athletic fees;
 - C) matriculation, service and other registration-type fees;
 - D) off-campus and other extension course fees;
 - E) application fees;
 - F) graduation and transcript fees;
 - G) proficiency exam, College Level Exam Program (CLEP), placement exam and similar fees; and
 - H) health insurance fees.
 - 2) The recipient is responsible for payment of the following fees:
 - A) book rental fees;
 - B) laboratory and supply fees;
 - C) student union fees; and
 - D) fees for the operation, maintenance, rental or equipping of any building or facility.
 - 3) Recipients attending out-of-district community colleges receive Tuition and fee benefits equivalent to those at the in-district rate.
 - g) Benefits are limited to the equivalent of four Academic Years of Full-time enrollment.
 - 1) To determine the amount of eligibility a recipient has used, credit hours will be converted to "eligibility units" according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
up to 2.99 hours	1 unit	1 unit
 - 2) Recipients may accumulate up to 120 eligibility units, after which eligibility for program benefits is terminated. If a recipient has accumulated less than 120 eligibility units, the recipient may receive full program benefits for one additional Term.

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- 3) In the event that a recipient withdraws from a course(s) prior to the end of a Term, eligibility units will be assessed in proportion with the total dollars that are paid. If the recipient has had any portion of his/her Tuition and fees paid, at least one eligibility unit will be charged to the recipient.

Example: A recipient is Enrolled for twelve semester hours at a cost of \$300.00. The recipient withdraws from enrollment and incurs expenses of \$150.00 in accordance with the Institution's Tuition refund policy. The recipient would utilize six eligibility units and receive \$150.00 in benefits.
 - 4) The eligibility units utilized for a non-credit course shall be the same as the number of eligibility units utilized for a credit course having the same number of faculty contact hours.

h) Notwithstanding the provisions of subsection (g), eligibility shall terminate upon the expiration of ~~fourteen~~ sixteen years from the beginning date of the first Term of assistance. Should the ~~fourteen~~ sixteen years expire after the start of a Term of study, the recipient may complete the Term with the grant awarded. No recipient's eligibility shall be terminated pursuant to this subsection prior to August 1, ~~1989~~ 1991.
- (Source: Amended at 13 Ill. Reg. _____, effective _____)
- Section 2733.30 Program Procedures
- a) Applicants must apply to ISAC for designation as a Qualified Veteran. ISAC shall issue a notice of eligibility to an Applicant who is a Qualified Veteran as defined by this subsection.
 - 1) Definition of "Qualified Veteran"
 - A) Any person who served in the Armed Forces of the United States who at the time of entering service was an Illinois resident or was an Illinois resident within 6 months of prior to entering such service, and who after leaving service returned to Illinois within 6 months.
 - B) Any veteran who, at the time of entering the Armed Forces, was a student at a State-controlled college or university or community college and who, after leaving service, returned to Illinois within 6 months.

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- C) Any member of the Armed Forces of the United States who has served at least one year of active duty and who would be a Qualified Veteran under this subsection if honorably discharged from such service.
- D) An individual is not a Qualified Veteran if the individual was discharged from the Armed Forces of the United States under less than honorable conditions. An individual is not a Qualified Veteran if the individual's active duty with the Armed Forces was for less than one year unless:
- i) the Veteran was honorably discharged from such service for medical reasons directly connected with such service; or
 - ii) the Veteran was honorably discharged prior to August 11, 1967.
- 2) The term "Armed Forces" shall be defined as the United States Army, Air Force, Navy, Marines and Coast Guard. Members of the Student Army Training Corps and a state's National Guard/militia are not eligible for assistance.
- 3) The Applicant shall submit documentation to ISAC which demonstrates eligibility for designation as a Qualified Veteran.
- A) Applicants should submit a copy of their Report of Separation (Form DD 214) with their application.
 - B) If the Applicant does not have a copy of the DD 214, the Applicant should submit documentation which provides, the following information: date of entry; date of separation; type of discharge; total active service; home or place of entry into the service; and home or place of separation from the service. Such documentation must have been issued by the United States Department of Defense (DD) or the Veterans Administration.
 - C) If the Applicant is a member of the Armed Forces at the time of application, the Applicant shall submit a copy of the Enlistment Contract (Form DD4) and a letter from the commanding officer. The letter must indicate the Applicant is a member of the Armed Forces at the time of application.

- 4) If the Applicant's DD 214 does not indicate Illinois residency when entering and/or separating from the Armed Forces, the Applicant may establish Illinois residency in accordance with the documentation requirements of 23 Ill. Adm. Code 2700.50 (f)(3). The definition of "Resident of Illinois" contained in 23 Ill. Adm. Code 2700.20 is not applicable to the Illinois Veteran Grant Program.
- 5) If an Applicant is designated a Qualified Veteran pursuant to subsection (a)(1)(C), such designation shall expire upon discharge from the Armed Forces.
- b) Qualified Veterans shall be issued a notice of eligibility. To receive an Illinois Veteran Grant, Applicants must submit a copy of their notice of eligibility to the Institution within three months following the last scheduled day of classes for the Term for which a grant is requested. Qualified Veterans who received an Illinois Veterans Scholarship (IVS) ID card from the Illinois Department of Veterans' Affairs may receive an Illinois Veteran Grant by submitting a copy of their IVS ID card to the Institution.
- c) Institutions shall submit a payment request to ISAC. The deadlines for submission of a complete payment request shall be October 15 for Summer Terms; February 15 for first Term; and June 25 for second semester/second and third quarter. When submitting payment requests, the Institution shall certify that the Qualified Veteran meets the requirements of Section 2733.20.
- d) The reimbursement to Institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, Institutions will be reimbursed in accordance with this subsection.
- 1) Summer Term claims received by the deadline date designated in subsection (c) will be paid, or prorated if funding is insufficient to pay all claims in full.
 - 2) If funds remain after summer Term claims are paid, first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full.
 - 3) If funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full.
 - 4) In the event that funds are not exhausted, claims received by ISAC after the designated deadline dates will be paid or prorated.

(Source: Amended at 13 Ill. Reg.

, effective

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ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Merit Recognition Scholarship (MRS) Program
- 2) Code citation: 23 Ill. Adm. Code 2761
- 3) Section numbers: 2761.10 Proposed Action: Amendment
 2761.20 Amendment
 2761.30 Amendment
 2761.40 Repealed
- 4) Statutory Authority: Implementing and authorized by Section 30-15.7b of the Higher Education Student Assistance Law (111. Rev. Stat. 1987, ch. 122, par. 30-15.7b as amended by P.A. 86-461, effective July 1, 1989).
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 86-461 substantially revised the MRS program including increasing the scholarship to a \$1,000 award (one-time only) for the top 5% of each high school graduating class. This rulemaking implements these statutory amendments and provides for the multiple disbursement of scholarship funds.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, place, and manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
 Executive Director
 Illinois Student Assistance Commission
 106 Wilmet Road
 Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2761
 MERIT RECOGNITION SCHOLARSHIP (MRS) PROGRAM

Section
 2761.10 Summary and Purpose
 2761.20 Definitions
 2761.30 ~~Applicable~~ Program Procedures
 2761.40 Program Procedures (Repealed)

AUTHORITY: Implementing and authorized by Section 30-15.7b of the Higher Education Student Assistance Law (111. Rev. Stat. 1982~~9~~, ch. 122, pars. 30-15.7b).

SOURCE: Adopted at 9 Ill. Reg. 10277, effective July 5, 1985; amended at 9 Ill. Reg. 20849, effective January 1, 1986; amended at 11 Ill. Reg. 3220, effective January 29, 1987; amended at 11 Ill. Reg. 14127, effective August 10, 1987; amended at 12 Ill. Reg. 11543, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1761 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2761 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17863; amended at 13 Ill. Reg. _____, effective _____.

Section 2761.10 Summary and Purpose

- a) The Merit Recognition Scholarship Program encourages and rewards the distinguished academic achievement of Illinois high school graduates. The scholarship is a \$500.00 award which may be renewed once for a total Merit Recognition Scholarship of \$1,000. The scholarship must be used for enrollment at an approved Illinois college or university, postsecondary institution.
- b) This Part establishes rules which govern the Merit Recognition Scholarship Program. Additional rules and definitions are contained in the General Provisions Part at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

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Section 2761.20 Definitions

"Approved High School" - Defined at Section 30-15.2(c) of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1985, Ch. 122, par. 30-15.2(c)).

"Cumulative Grade Point Average" - The average grade earned throughout a student's educational program. The calculation shall be consistent with the Institution's established policy or practice and shall be the same as those completed for admission, placement, or other similar purposes.

"Eligible Applicant" - Defined at Section 30-15.7b of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1986-Supp-1989, Ch. 122, par. 30-15.7b).

"Graduating Class" - The total number of students to complete the high school's program of instruction and graduate within an Academic Year.

"Graduation Date" - The date which terminates the Academic Year for graduating high school students. If an Approved High School has more than one commencement exercise a year, the Approved High School shall designate one Graduation Date for each twelve-month Academic Year.

"Institution of Higher Learning" - Defined at Section 30-15.2(c) of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1983, Ch. 122, par. 30-15.2(c)).

"Qualified Student" - Defined at Section 30-15.7b of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1986-Supp-1989, Ch. 122, par. 30-15.7b).

"Seventh Semester" - The period of instruction, at the completion of which, a student has completed eighty percent of the Approved High School's program of instruction. The seventh semester will usually be the student's next-to-last Term.

(Source: Amended at 13 Ill. Reg. , effective)

Section 2761.30 Application Program Procedures

- a) In February of every year, Approved High Schools in Illinois shall certify to the Illinois Student Assistance Commission (ISAC) the names of students who are Eligible Applicants.

1) The certification of names shall be submitted on forms provided by ISAC. Certifications submitted by Approved High Schools shall be subject to audit by ISAC.

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- 2) Eligible Applicants must have completed their seventh semester of instruction at an Approved High School in Illinois.

b) Eligible Applicants shall be sent a Merit Recognition Scholarship application in accordance with Section 1761.40(b) and (c); the application which must be completed by the student and the postsecondary institution attended by the Applicant. A complete application must be received by ISAC prior to June 15th of the Academic Year following graduation from the Approved Illinois High School. Should the recipient transfer to a different institution after submission of the application, the enrollment transfer must be reported to ISAC in order to receive scholarship payments. ISAC will identify qualified students in accordance with Section 1761.20. The initial Merit Recognition Scholarship must be utilized in one of the two Academic Years which follow school graduation.

c) Scholarship Renewals

1) All students claiming an initial Merit Recognition Scholarship shall be sent a renewal application. All scholarship recipients are eligible to apply for a one-time renewal. The renewal scholarship must be utilized in the Academic Year following usage of the initial award.

2) A renewal Applicant must be an Illinois resident and a citizen or permanent resident of the United States. During the Academic Year of the initial award, the renewal Applicant also must have: A) Completed two semesters, or three quarters, or one semester and one quarter of study;

B) Completed the aforementioned terms with at least half-time enrollment;

C) Completed the aforementioned terms with an established cumulative Grade Point Average no lower than 2.5 on a 4.0 scale; and;

D) Maintained Satisfactory Academic Progress.

c) ISAC shall disburse scholarship funds in two or three increments depending on the number of Terms financed by the scholarship. Scholarship funds may be used to finance expenses for a summer Term.

1) The application form constitutes a request for payment of first Term benefits. ISAC shall issue payment request rosters for Institutions to request payment for subsequent Terms.

2) Funds shall be remitted to Institutions on behalf of the qualified students. When requesting payment of scholarship funds, the Institution shall certify that the recipient is: a U.S. Citizen or Eligible Noncitizen; a Resident of Illinois; of Good Moral Character; accepted for enrollment on at least a half-time basis; not the recipient of a baccalaureate degree.

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- 2) Upon receipt of scholarship funds, the Institution shall verify the recipients' enrollment status. If the recipient is enrolled, the Institution may credit the disbursement funds to the recipient's account for expenses then due and payable. The balance of the disbursement shall be released to the recipient.

- 3) If the recipient has withdrawn from enrollment or drop to less than half-time enrollment, the Institution shall return the disbursement to ISAC.

- d) Scholarship funds are applicable to two semesters or three quarter terms and must be used for educational expenses, including, but not limited to, tuition and fees, room and board, books and supplies, and travel and personal expenses related to the student's enrollment.

- e) Should the recipient withdraw from enrollment during the first-term financed by the scholarship, the recipient shall return the funds disbursed.

(Source: Amended at 13 Ill. Reg. , effective)

Section 2761.40 Program Procedures (Repealed)

- a) The certified lists of Applicants submitted by Approved Illinois High Schools shall be subject to audit by ISSC.
- b) All Applicants shall submit their completed application to the postsecondary institution at which each Applicant is enrolled or plans to enroll.
- c) The institution shall complete its portion of the application and submit the application to ISSC. An initial application must be received by ISSC within one year of the high school graduation date. Renewal applications must be received by ISSC by the deadline stated on the renewal application.
- d) Receipt by ISSC of a completed application shall constitute a request for payment. Funds shall be remitted to institutions on behalf of the qualified students.
- e) When submitting an application to claim Merit Recognition Scholarship funds, the institutions of higher learning shall certify that the that the recipient is:
- 1) A U.S. Citizen or Eligible Noncitizen;
 - 2) A Resident of Illinois;
 - 3) Of Good Moral Character;
 - 4) Accepted for enrollment on at least a half-time basis;
 - 5) Not the recipient of a baccalaureate degree.

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- f) Scholarship funds must be used for educational expenses, including, but not limited to, tuition and fees, room and board, books and supplies, and travel and personal expenses related to the student's enrollment.

- g) Upon receipt of scholarship funds, the Institution shall verify the recipients' enrollment status.

- 1) If the recipient is enrolled, the Institution may credit the scholarship funds to the recipient's account for expenses then due and payable. The balance of the scholarship funds shall be released to the recipient. If the recipient has withdrawn from enrollment, the Institution shall return the total amount of the scholarship to the ISSC.

- 2) Should the recipient withdraw from enrollment during the first term financed by the scholarship, the recipient shall refund the total amount of the scholarship. Should the recipient fail to refund the scholarship, the recipient forfeits any claims to a renewal scholarship.

(Source: Repealed at 13 Ill. Reg. , effective)

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NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Monetary Award Program (MAP)
- 2) Code Citation: 23 Ill. Adm. Code 2735
- 3) Section Numbers: 2735.20 Proposed Action: Amendment
2735.30 Amendment
2735.70 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 30-15 et seq. of The Higher Education Student Assistance Law (Ill. Rev. Stat. 1987, ch. 122, par. 30-15 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to this Part would raise the maximum credit hour cap, adjust the MAP application deadline provisions, revise the eligibility requirement for repeat courses and provide requested clarifications.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilmet Road
Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2735
MONETARY AWARD PROGRAM (MAP)

Section 2735.10	Summary and Purpose
2735.20	Applicant Eligibility
2735.30	Application for MAP Grants
2735.40	Determination of Financial Eligibility
2735.50	Institutional Packaging of Gift Assistance
2735.60	Institutional Eligibility
2735.70	Enrollment Requirements
2735.80	Disbursement of MAP Grants
2735.100	Contractual Agreement Requirements
APPENDIX A	Advance Payment Formula

AUTHORITY: Implementing and authorized by Sections 30-15 et seq. of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1982⁹, ch. 122, par. 30-15 et seq.).

SOURCE: Adopted at 9 Ill. Reg. 20857, effective January 1, 1986; amended at 11 Ill. Reg. 3225, effective January 29, 1987; amended at 11 Ill. Reg. 14134, effective August 10, 1987; amended at 12 Ill. Reg. 11546, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1735 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2735 (Illinois Student Assistance Commission) pursuant to P.A. 86-158, effective July 1, 1989, at 13 Ill. Reg. 17864; amended at 13 Ill. Reg. _____, effective _____.

Section 2735.20 Applicant Eligibility

a) All MAP Grant recipients must be:

- 1) Citizens or Eligible Noncitizens of the United States, and Residents of Illinois;
- 2) students in good standing in accordance with their Institution's policy of Satisfactory Academic Progress; and
- 3) Enrolled on at least a Half-time basis at a MAP-approved postsecondary Institution. (See: Section 2735.60.)

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A) A recipient may receive MAP grant payment for less than Half-time enrollment provided the recipient was Enrolled on at least a Half-time basis throughout the Institution's Tuition refund/withdrawal adjustment period. See Section 2735.70(g).

B) Effective with Terms beginning on or after July 1, 1990, no person who is incarcerated may receive a MAP grant.

b) All recipients must demonstrate financial eligibility as determined from the financial data supplied to the Illinois Student Assistance Commission (ISAC). (See: Section 2735.40.)

c) Eligibility is restricted to undergraduate students.

1) MAP recipients must not have received a baccalaureate degree nor have completed more than ~~150~~160 semester/225240 quarter credit hours of college level work at all Institutions attended.

2) Graduate Students are not eligible for MAP assistance. For purposes of this Part, an Institution shall classify as a "Graduate Student" any student who:

A) is enrolled in an academic program or course above the baccalaureate level which is leading to any degree above the baccalaureate level; and

B) is not eligible to receive federal financial assistance (34 CFR 674.2, 675.2, 676.2) as an undergraduate student; and

C) has completed the equivalent of at least three years of Full-time postsecondary study, either prior to entrance into the academic program or as part of the academic program itself.

d) A recipient may receive the equivalent of 10 semesters/15 quarters of Full-time equivalent MAP grant payment. See: 23 Ill. Adm. Code 2700.40(h). If a recipient has accumulated less than sixty eligibility units, he/she may receive one additional Term of Full-time MAP assistance.

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NOTICE OF PROPOSED AMENDMENTS

e) If an Applicant has completed more than ~~150~~160 semester/225240 quarter hours of college level study, the Applicant shall be allowed one additional Term of MAP eligibility provided:

1) the additional Term is used the final Term necessary to complete an undergraduate degree; and

2) the Applicant has not received the equivalent of 10 semesters/15 quarters of Full-time MAP grant payments.

f) Seniors in their last Term of enrollment prior to receiving a baccalaureate and Applicants Enrolled in student teaching are classified as Full-time Students for purposes of MAP grant eligibility.

(Source: Amended at 13 Ill. Reg. , effective)

Section 2735.30 Application for MAP Grants

a) An Applications for a MAP grant must be submitted annually.

Applicants may use any one of the following forms to apply for MAP grants: forms which the United States Department of Education (ED) designates as an application form for the Pell Grant program. See Section 483 of the Higher Education Act of 1965, as amended (20 USC A 1090).

- 1) Application for Federal Student Aid (AFSA), published by the United States Department of Education (ED); or
- 2) Family Financial Statement (FFS), published by the American College Testing Program (ACT); or
- 3) Financial Aid form (FAF), published by the College Scholarship Service (CSS); or
- 4) Application for Federal and State Student Aid (AFSSA), published by the ISAC; or
- 5) Applications approved by ISAC.

b) Application Deadlines

1) Regular School Year applications must be received before June 1 from students who were Enrolled in a postsecondary Institution during the previous Regular School Year. Regular School Year applications must be received before October 1 from students not Enrolled during the previous Regular School Year. Applications for second semester or third quarter, only, must be received by March 15 of the regular School Year.

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2) Applications received between June 1 and October 1 from students enrolled in a postsecondary institution during the previous Regular School Year will be evaluated for grant assistance applicable either to the second semester or the second and third quarter of the Regular School Year.

3) All applications received after October 1 but prior to March 15 will be evaluated for grant assistance applicable only to the second semester or the third quarter of the Regular School Year.

4) To the extent necessary to administer the program within the limits of the MAP appropriation, the Commission may adjust the deadline dates established by subsection (b).

c) When an application is incomplete, a notification will be sent to the Applicant. The Applicant then has an opportunity to furnish the missing information; however, depending on processing schedules, the Applicant may be considered only for subsequent Term(s).

d) The ISAC informs Applicants that they are MAP recipients on the basis of application data. All announced MAP recipients are subject to Verification and the availability of funds.

Section 2735.70 Enrollment Requirements

a) It is the responsibility of MAP recipients to gain admission to approved Illinois Institutions. Illinois Institutions are not obligated to admit Monetary Award recipients. Once the recipient is Enrolled and attending classes, the Institution shall receive Tuition payments and other Mandatory Fees provided by the award. The receiving Institution is obligated to provide Monetary Award recipients the same facilities and instructions, at the same charges, as ~~all~~ are provided other students.

b) The MAP grant shall not pay for academic programs intended to prepare a student for the General Educational Development (GED) Test or for a high school diploma. See: e.g., 23 Ill. Adm. Code 215.

c) The MAP grant shall not pay for audit courses, credit-by-examination and/or life experience, ~~repeat courses (where a student has already received credit)~~ non-credit course offerings, and correspondence courses. Such course work cannot be used to meet the Half-time or Full-time requirement.

d) For any Institution which has Concurrent Registration opportunities, the following policy pertains:

1) The recipient must indicate his/her Institution of record on the MAP application.

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2) The payment of the Term award by ISAC will require the Institution of record to receive MAP payment on behalf of both Institutions and to distribute the appropriate share of the award to the other Institution. Payment by ISAC will not be made to two Institutions.

3) The amount paid cannot exceed the maximum Term award for Full-time or Half-time students at the Institution of record, or the Tuition and Mandatory Fee costs of attending both if the costs are less than the maximum Term award.

4) Concurrent Registration is limited to MAP approved Institutions.

5) The records at the Institution of record must indicate the total credit hours Enrolled.

e) If a recipient's academic program involves out-of-state and/or foreign study, enrollment must be in accordance with the following provisions:

1) The recipient must be Enrolled at the MAP approved Institution, and the out-of-state/foreign study must be in conjunction with the approved Institution's curriculum;

2) The MAP approved Institution must record the course credits on the official academic transcript as Institutionally earned credit and not as transfer credit;

3) The recipient must be Enrolled Full-time and must be charged Tuition and fees at least equal to Tuition and Mandatory Fees charged all students.

4) An Institution shall not request more than two semesters/three quarters of MAP assistance for any one recipient.

f) If an announced recipient's credit hour enrollment decreases, the Institution shall only request payment up to the amount of actual expenses incurred.

g) If an Applicant withdraws from enrollment after the expiration of the Tuition refund/withdrawal adjustment period, the Applicant shall receive MAP grant payment for costs incurred up to the Term award provided the Institution's Tuition refund policy indicates the Applicant has incurred charges in the amount of the claim.

h) Eligibility units are accumulated by a recipient whenever MAP funds are disbursed on behalf of the recipient. See: 23 Ill. Adm. Code 2700.40(h).

(Source: Amended at 13 Ill. Reg.

, effective)

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- 1) The Heading of the Part: Policemen/Firemen Dependent's Grant Program
- 2) Code citation: 23 Ill. Adm. Code 2732
- 3) Section numbers: 2732.10 Proposed Action: Amendment
2732.20

4) Statutory Authority: Implementing Section 30-15.7c and authorized by Section 30-15.4 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1987, ch. 122, par. 30-14.4 and 30-15.7c).

5) A Complete Description of the Subjects and Issues Involved: ISAC proposes to update statutory citations and to improve certain nomenclature.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Not applicable

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication on this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilnot Road
Deerfield, Illinois 60015

12) Initial Regulatory Flexibility Analysis: This rulemaking does not effect small businesses.

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2732
POLICEMEN OFFICER/FIREMEN OFFICER DEPENDENT'S GRANT PROGRAM

Section 2732.10 Summary and Purpose
2732.20 Policemen Officer/Firemen Officer Dependent's Grant Program

AUTHORITY: Implementing Section 30-15.7c and authorized by Section 30-15.4 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1987, ch. 122, pars. 30-15.4 and 30-15.7c).

SOURCE: Adopted at 9 Ill. Reg. 20873, effective January 1, 1986; amended at 11 Ill. Reg. 3239, effective January 29, 1987; transferred from Chapter IX, 23 Ill. Adm. Code 1732 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2732 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17866; amended at 13 Ill. Reg. _____, effective _____.

Section 2732.10 Summary and Purpose

This Part establishes Rules which govern the Policemen Officer/Firemen Officer Dependent's Grant Program. Additional Rules and definitions are contained in the General Provisions part at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

Section 2732.20 Policemen Officer/Firemen Officer Dependent's Grant Program

- a) If an Illinois Policemen Officer or Firemen Officer was declared killed in the line of duty, the surviving spouse and children of the deceased may receive undergraduate grant assistance under this Part.
- b) The surviving children must be at or under the age of twenty-five at the time of enrollment. The surviving children must be the natural or adopted children of the deceased. Step-children are ineligible.
- c) Recipients must be Citizens or Eligible Noncitizens of the United States, and Residents of Illinois.
- d) Grant amounts shall be calculated in accordance with Ill. Rev. Stat. 19851989, ch. 122, par. 30-15.7(c)(1) and (2) as amended by Public Act 84-1300, effective August 19, 1986, or as later amended. Financial need is not a criterion.

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e) Grants may be used at any postsecondary institution approved for participation in the Monetary Award Program, provided the Applicant is Enrolled at least half-time and is maintaining Satisfactory Academic Progress. (See: 23 Ill. Adm. Code 2735.60.) Benefits are limited to the equivalent of ten semesters or fifteen quarters of payment.

f) Applicants shall file a biographical application, identifying the deceased Policeman Officer/Fireman Officer and will be required to submit a death certificate. Once eligibility has been established on behalf of all eligible dependents in the family, an annual application identifying the Institution to be attended is required.

(Source: Amended at 13 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: State Scholar Program
- 2) Code Citation: 23 Ill. Adm. Code 2760
- 3) Section Numbers: 2760.40 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 30-15.5 and 30-15.6 and authorized by Section 30-15.4 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1987, ch. 122, pars. 30-14.5, 30-15.6, and 30-15.4, as amended by P.A. 86-128, effective July 1, 1989).
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment implements P.A. 86-128 by eliminating the class rank requirement for graduates of the Illinois Mathematics and Science Academy.
- 6) Will this proposed amendment replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Mr. Larry E. Matejka
Executive Director
Illinois Student Assistance Commission
106 Wilnot Road
Deerfield, Illinois 60015
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2760
STATE SCHOLAR PROGRAM

Section
2760.5 Summary and Purpose
2760.10 Selection Criteria
2760.30 Testing and Class Ranking of Students to be Considered for Program
2760.40 Other Information

AUTHORITY: Implementing Sections 30-15.5 and 30-15.6 and authorized by Section 30-15.4 of the Higher Education Student Assistance Law (111. Rev. Stat. 1989, ch. 122, pars. 30-15.5, 30-15.6, and 30-15.4.

SOURCE: Adopted at 3 111. Reg. 4, p. 38, effective January 26, 1979; amended at 4 111. Reg. 16, p. 118, effective April 7, 1980; rules repealed, new rules adopted at 5 111. Reg. 7251, effective June 26, 1981; amended at 6 111. Reg. 8413, effective June 30, 1982; codified at 7 111. Reg. 10878; amended at 9 111. Reg. 20877, effective January 1, 1986; amended at 11 111. Reg. 3242, effective January 29, 1987; amended at 11 111. Reg. 14137, effective August 10, 1987; amended at 13 111. Reg. 8654, effective July 1, 1989; transferred from Chapter IX, 23 111. Adm. Code 1760 (State Scholarship Commission) to Chapter XIX, 23 111. Adm. Code 2760 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 111. Reg. 17868; amended at 13 111. Reg. _____, effective _____.

Section 2760.40 Other Information

- a) High School officials or student Applicants shall have a period of 60 days following the announcement of the State Scholars to appeal a student's status. See: 23 111. Adm. Code 2700.70.
- b) A Certificate of Achievement and congratulatory letter shall be sent to each State Scholar.
- c) A listing of State Scholars shall be available to colleges, high schools, members of the General Assembly, and to the media.
- d) If an appeal concerning an Applicant's eligibility is received, the ISAC shall request the high school to verify the reported data. If the conflict remains, the ISAC shall conduct an audit of the high school's records in accordance with 23 111. Adm. Code 2700.60.

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- e) Mailing labels of State Scholars' names shall be available, at cost, to Illinois colleges and associations of Illinois colleges. Payment must be received by ISAC at the time the mailing labels are ordered. Such requestors of labels shall provide written assurance to ISAC that the labels will not be resold or released to others in any manner.

f) Contrary provisions of this Part notwithstanding, each graduate of the Illinois Mathematics and Science Academy shall be designated a State Scholar provided the graduate has reported to ISAC (pursuant to Section 2760.30) a test score equal to or greater than an Illinois Standard Score of 20.

(Source: Amended at 13 111. Reg.

, effective

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DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Claims, Adjudication, Appeals and Hearings

2) Code Citation: 56 Ill. Adm. Code 2720

3) Section Number: Adopted Action:
2720.1 Amended
2720.130 Amended
2970.132 New Section

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 48, pars. 349, 409, 420, 450, 451, 452, 453, 455, 456, 470, 471, 473, 474, 474a, 500, 501, 502, 504, 530, 610, 611, 700, 701, 702 and 704, as amended by P. A. 86-3, effective July 1, 1989).

5) Effective Date of these Amendments: November 9, 1989.

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this Rule contain an incorporation by reference? No.

8) Date filed in Agency's Principal Office: October 31, 1989.

9) Notice of Proposal published in Illinois Register: July 14, 1989 at 13 Ill. Reg. 11139.

10) Has JCAR issued a Statement of Objection to these Rules? No.

11) Difference between proposal and final version: In Section 2720.1, in the definition of "Decision," the word "ruling" was changed to "statement" and, in the definition of "Part-to-tal employment," an example was added. In Section 2720.132, in (b), "and must be labelled "Employer's Notice of Separation For Alleged Felony Or Theft" was deleted and "and" was added before "the date..." in the last line. In (d), a clause was added at the beginning to indicate that the required notice needs to be mailed to the centralized address only when it is not in response to a notice that a claim for benefits has been filed. Quotation mark is added after "Party" in Section 2720.132(d). Also, the name of unit to receive such notification has been changed.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

13) Will these amendments replace an emergency rule currently in effect? Yes.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of the Amendments: The proposed rulemaking consolidates three forms currently used by the Agency to notify the employer that a claim has been filed into a single, multi-purpose form. Additionally, since, effective July 1, 1989, benefit charges will accrue only to the "last employer" instead of to multiple base period employers, it is the intention of the Agency to severely limit the mailing of this now unnecessary form. However, in the limited situation where the individual was discharged for an alleged felony or theft connected with his work, it would still be desirable for the employer to inform the Agency of this situation. Therefore, a procedure is established for the employer to provide this information and to become a party to the Agency's determination of the individual's eligibility on this issue. These amendments also set forth an employer's right to "party" status for an issue which arises during a claim series.

16) Information and Questions regarding these Adopted Amendments shall be directed to:

Stella Adams Cuthbert, Commissioner
Illinois Department of Employment Security
401 South State Street - 2 South
Chicago, Illinois 60605
312/793-4240

The full Text of the Adopted Amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONSPART 2720
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

SUBPART A: GENERAL PROVISIONS

Section
2720.1 Definitions
2720.3 "Week" In Relation To "Benefit Year"
2720.5 Service Of Notices, Decisions, Orders
2720.10 Computation Of Time
2720.15 Disqualification Of Adjudicator, Referee, Or Board Of Review
2720.20 Attorney Representation Of Claimants
2720.25 Form Of Papers Filed
2720.30 Correction Of Technical Errors

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section
2720.100 Filing A Claim
2720.101 Filing, Registering And Reporting By Mail Under Special Circumstances
2720.105 Time For Filing An Initial Claim For Benefits
2720.106 Dating Of Claims For Weeks Of Partial Unemployment
2720.107 Employing Unit Reports For Partial Unemployment
2720.110 Required Second Visit To Local Office
2720.115 Continuing Eligibility Requirements
2720.120 Time For Filing Claim Certification For Continued Benefits
2720.125 Work Search Requirements For Regular Unemployment Insurance Benefits
2720.126 Availability For Part Time Work Only
2720.127 Director's Approval Of Training
2720.128 Active Search For Work: Attendance At Training Courses
2720.129 Regular Attendance In Approved Training
2720.130 Employing Unit Protest Of Benefit Payment
2720.132 Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work
2720.135 Adjudicator Investigation

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NOTICE OF ADOPTED AMENDMENTS

2720.140 Adjudicator Determination
2720.145 Payment Of Unemployment Insurance Benefits For Initial Claims
2720.150 Applying For Unemployment Insurance Benefits Under Extension Programs
2720.155 Non-Resident Application For Benefits
2720.160 Reconsidered Findings Or Determinations

SUBPART C: APPEALS TO REFEREE

Section
2720.200 Filing Of Appeal
2720.205 Notice Of Hearing
2720.210 Preparation For The Hearing
2720.215 Format Of Hearings
2720.220 Ex Parte (One Party Only) Communications
2720.225 Subpoenas
2720.227 Depositions
2720.230 Consolidation Or Severance Of Proceedings
2720.235 Withdrawal Of Appeal
2720.240 Continuances
2720.245 Conduct Of Hearing
2720.250 Rules Of Evidence
2720.255 Failure Of Party To Appear At The Scheduled Hearing
2720.265 The Record
2720.270 Referee's Decision
2720.275 Labor Dispute Appeals
2720.277 Prehearing Conference In Labor Dispute Appeal

SUBPART D: APPEALS TO THE BOARD OF REVIEW

Section
2720.300 Filing Of Appeal
2720.305 Notice Of Appeal
2720.310 Request For Oral Argument
2720.315 Request For Written Argument Or Additional Evidence
2720.320 Access To Record
2720.325 Withdrawal Of Appeal
2720.330 Consolidation Or Severance Of Appeals
2720.335 Decision Of The Board Of Review
2720.340 Extensions Of Time In Which To Issue A Board Of Review Decision
2720.345 Issuance Of Notice Of Right To Sue

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act (Ill. Rev. Stat. 1987, ch. 48, pars. 349, 409, 420, 450, 451, 452, 453, 455, 456, 470, 471, 473, 474, 474a, 500, 501, 502, 504, 530, 610, 611, 700, 701, 702 and 704, as amended by P. A. 86-3, effective July 1, 1989).

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986; amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989.

NOTE: ORATOR TYPE DENOTES STATUTORY LANGUAGE

SUBPART A: GENERAL PROVISIONS

Section 2720.1 Definitions

All other terms used in this Part 2720 of these rules shall have the meaning set forth in definitions, Sections 200 through 247 of the Unemployment Insurance Act (Ill. Rev. Stat. 1985, ch. 48, pars. 310 through 372), unless the context requires otherwise. Throughout this Part, the use of terms imparting the masculine gender shall also apply to the feminine gender.

"Act" means the Unemployment Insurance Act, as amended (Ill. Rev. Stat. 1985, ch. 48, pars. 300 et seq.).

"Adjudicator" means the person authorized to make Findings, Determinations or Recoupment Decisions relating to a claimant's eligibility for unemployment insurance benefits.

"Agency" means the Department of Employment Security.

"Appeal" means the process of agency or judicial review of a Finding, Determination or Decision.

"Appellant" means a party who appeals an Agency finding, determination or decision.

"Appellee" means a party to a finding, determination or decision appealed by the appellant.

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"Board" means the Board of Review of the Department of Employment Security.

"Claimant" means a person who applies for benefits under the Act.

"Claim Series" means a week or series of consecutive weeks for which benefit or waiting week credit is granted.

"Claimant" means a person who applies for benefits under the Act.

"Customary occupation" means the work in which the individual was last engaged or the occupation for which he is best qualified by training, experience, and education.

"Decision" means the ruling statement made by a Referee, the Director or the Board of Review with respect to any appeal from a Finding or Determination relating to rights or obligations under the Act or a statement by an adjudicator that an employing unit's protest is insufficient.

"Determination" means An Adjudicator's statement of whether or not a claimant is eligible for benefits or waiting week credit, and the dollar amount of such benefits for each week with respect to which a claim is made (Section 702 of the Act, Ill. Rev. Stat. 1985, ch. 48, par. 452).

"Director's Representative" means an employee of the Agency designated by the Director of Employment Security to conduct hearings and to recommend decisions to the Director.

"Employing unit" shall have the same meaning as that set forth in Section 204 of the Act (Ill. Rev. Stat. 1985, ch. 48, par. 314).

"Filing date" means the date a document was mailed to or received by the Agency, whichever is earlier.

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"Finding" means a statement by an Adjudicator of the amount of wages for insured work paid to a claimant during each quarter in the claimant's base period by each employer (Section 701 of the Act, Ill. Rev. Stat. 19857, ch. 48, par. 451).

"Full-time work" is the number of hours a class of workers would customarily work if the employing unit had all of the work it could handle without working overtime. Except where the contrary is provided by a collective bargaining agreement or company policy, full time work is customarily 40 hours per week. For example, 37.5 hours per week is full time work for Illinois state employees because it is so provided by state personnel policy.

"Initial claim" means an application for benefits which, meeting all monetary eligibility requirements, commences a claim series.

"Local office" means the office of the Agency servicing claimants who live in a specific geographical area.

"Monetary Eligibility" means a claimant's eligibility for a weekly amount of unemployment insurance and the amount of dependency allowance, if any, based on the amount of qualifying wages paid.

"Nonmonetary Eligibility" means that the claimant has established monetary eligibility and has not been found ineligible or subject to disqualification under the Act from receiving unemployment insurance benefits.

"Part-time work" means services not normally required for the customary schedule of full time hours or days prevailing in the establishment in which such services are performed, or services performed by a person who, owing to his personal circumstances or the nature of the work he is qualified to perform, does not customarily work the schedule of full time hours or days prevailing in the establishment in which he is employed (Section 407 of the Act, Ill. Rev. Stat. 19857, ch. 48, par. 407). Generally, part work will

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be less than 40 hours per week except where company policy or a collective bargaining agreement provides for a lesser number of hours per week as full time work. In such cases, part time work shall be work less than the number of full time hours set by the collective bargaining agreement or company policy.

"Part-total employment" means part-time work with an employing unit other than one's regular employing unit.

Example: The claimant is laid off by Company A, his regular employing unit, as defined in this Section, and accepts temporary, part-time work with Company B, an employing unit other than his regular employing unit. The part-time work with Company B constitutes "part-total employment."

"Partial employment" means part-time work with one's regular employment unit.

"Party" means, with respect to issues of nonmonetary eligibility, the claimant and any employing unit which files a timely and sufficient protest pursuant to Section 2720.130 of this Part. Only a party under Section 702 of the Act may appeal a nonmonetary determination or decision of the Agency regarding eligibility for benefits. With respect to findings under Section 701 of the Act, "Party" means the claimant and any employer whose base period wages are in question. With respect to the issues of sufficiency and timeliness of a protest pursuant to Section 2720.130 of this Part, "Party" means only the employing unit which files the protest.

"Protest" means the Agency form, "Employer Notice of Possible Ineligibility," or a letter in lieu thereof, which alleges that the claimant is not entitled to unemployment insurance benefits.

"Referee" means the hearing officer authorized to conduct hearings on appealed Adjudicator findings, determinations or Recoupment decisions and to make decisions on the matters appealed.

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"Regular employing unit" is either the employing unit for which an individual expects to continue working and to work full time if business warrants it, or any employing unit for which the individual worked full time for nine consecutive weeks during the preceding 52 weeks.

"Service area" means a geographical area served by a local office.

"Services" means not only work actually ~~done~~ performed, but the entire employer-employee relationship. Any attachment to an employing unit for which wages are payable constitutes a service for that employing unit.

(Source: Amended at 13 Ill. Reg. 18263, effective Nov. 9, 1989)

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section 2720.130 Employing Unit Protest Of Benefit Payment

a)

A protest, ("Notice Of Possible Ineligibility" (BIS-22) or a letter in lieu thereof) raises questions of eligibility, entitles an employing unit to receive an Adjudicator's Determination regarding questions of eligibility raised, and if timely and sufficient as set out below, provides party status and appeal rights of such Determination relating to the protest.

- 1) The employing unit shall mail the protest within the later of ten calendar days after the date of notice shown on the Form "Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party" (BIS-0031) or of the Form "Notice of Additional Claim," (BIS-0183) or of the form "Notice to Interested Party." (BIS-0305) or by the "Notice Date Due" shown on the first two of these forms which has been mailed to it. If it employed the worker during his base period, the claimant meets the requirements of Section 500E of the Act, and none of the above forms has been mailed to it, the employing unit shall mail the protest within ten calendar days after the date of the Form "Notice

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of claim to Base Period Period Employer" which has been mailed to it. The protest shall be mailed to the Director at the local office designated on the form received by the employing unit. If the employing unit mails the protest to an address other than the address designated on the form received by the employing unit, timeliness of the notice shall be measured from the date of receipt at the proper address instead of the postmark date.

2)

The protest should include the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances supporting the allegation whom the employing unit designates for the Agency to contact for further information. The protest must meet the sufficiency requirements of subsection (d).

Any employing unit may at any time file a protest alleging that acts or circumstances which may have occurred during the claim series should result in termination or suspension of the payment of benefits. A protest regarding possible ineligibility during a claim series is timely beginning with the week in which it is received. Because, during a claim series, acts or circumstances may occur which could result in ineligibility, an employing unit's protest with respect to those acts or circumstances will be deemed timely (irrespective of the ten day time limit set forth in subsection (a)) and will, if also sufficient, provide party status; except, if the employing unit protests that, under Section 500C of the Act, the individual was not able to work, available for work or actively seeking work, then (that part of) the employing unit's protest will not be deemed timely and will not provide party status for any week prior to the week in which it was received by the Agency. Whether or not a protest is deemed timely or an employing unit is provided party status, ineligibility is determined from the week in which the acts or circumstances occurred.

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1)

Example: The employing unit from which the individual was separated does not respond within 10 days of date of mailing of the Notice of Claim to Last Employer, Last Employing Unit or other Interested Party. Later, during the claim series, the employing unit offers the individual suitable work that he refuses without good cause. The employing unit then protests, alleging that the individual should be ineligible under Section 603 of the Act, refusal of suitable work. This protest shall be deemed timely beginning with the week in which the refusal of work occurred.

2)

Example: During the third week of the claim series, the school district which employed the individual as a teacher during the last academic term offers him a contract to teach again in the next academic term. During the seventh week of the claims series, the school district protests that the individual should be ineligible under Section 612 of the Act. This protest shall be deemed timely as of the date that it is determined that the contract was offered to the individual.

3)

Example: The individual has been receiving benefits for fourteen weeks. In the fifteenth week, his former employer hears that the individual may have been incapacitated by an injury beginning in week six of the claim series. The employer protests that the individual should be ineligible for benefits under Section 500C of the Act beginning with week six of the claim series. While the Agency will investigate this individual's eligibility for benefits beginning with week six, the employer will only be a party to the determination of eligibility beginning with the week in which the employer notifies the Agency of its allegation of possible ineligibility.

c)

Where an employer alleges that an individual who was initially an unemployed individual but was later not unemployed under Section 239 of the Act, because the

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individual returned to work for the employer and continued to claim benefits, a protest shall be considered timely if filed within 45 days of the date the Agency mails the employer a Statement of Benefit Wages (BEN-118) which includes a period in which the employer alleges that the individual claimed benefits while he was employed by the employer.

d)

As long as the employing unit gives a reason or reasons for the allegation and the reason(s) is directly related to the issue raised and is not a general conclusion of law, the allegation shall be considered sufficient. A protest under this Section is sufficient only if limited to one claimant, except as otherwise provided below, and only if it:

1)

Alleges on the protest that the claimant is not eligible for benefits or waiting week credit by providing material reasons or facts in support of the allegation, other than a conclusion of law, which would support the claimant being held ineligible for benefits; or,

A) EXAMPLE: SUFFICIENT - EMPLOYING UNIT'S

PROTEST ALLEGES:

1)

ii) The claimant is not able to and available for work because she is in school.

iii) The claimant is not able to and available for work because he has no child care during working hours.

iv) The claimant is not able to and available for work because he has removed himself to an area of substantially less favorable work opportunities.

v) The claimant is not able to and available for work because she is seeking part-time work.

The claimant is not able to and available for work because he is in an occupation for which there is demand in the labor market area.

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B) EXAMPLE: NOT SUFFICIENT - EMPLOYING

UNIT'S PROTEST ALLEGES:

- i) The claimant is not actively seeking work. (General conclusion of law).
- ii) The claimant is not available for work. (No reason given for allegation).
- iii) The claimant is not able to and available for work because he was discharged from his last job. (Reason given is not related to the issue raised).

- 2) Alleges that the claimant is not eligible for benefits, because, in connection with any separation or layoff, the claimant has been or will be paid vacation pay, vacation pay allowance, or pay in lieu of vacation, in which event, the employing unit must designate, on the protest, within 10 calendar days after notification of the filing of his claim, or within 10 calendar days of the date such vacation pay is paid or payable, the period to which such pay is allocated. It is not necessary that a protest be filed for each individual vacation payment. No such designation is necessary for disqualification purposes, for vacation payments made during an announced period of shutdown for the purposes of inventory, vacation, or both; or

- 3) Alleges that the claimant is not eligible for benefits because he is unemployed due to his involvement in a labor dispute; and the employing unit, within 5 days of the start of the period of the work stoppage due to a labor dispute, provides the Agency with the name and Social Security number of each worker involved in the dispute. The list shall be filed with the Agency's Labor Dispute section. Upon receipt of the list, the Agency will mail a Labor Dispute Questionnaire to the employing unit and the union or representative of the employees involved in the labor dispute. The employing

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unit, union, and/or employee representative must respond to the questionnaire within 10 days. If the questionnaire is not received within 10 days, the Agency will issue a decision based on the information contained in the record at that time. The filing of the above list will constitute an allegation of possible ineligibility under the labor dispute provision (Section 604 of the Act) only and shall not be construed as an allegation of possible ineligibility under any other provision of the Act.

- e) In instances when the Agency determines that the protest has not met the sufficiency requirements of subsection (d)(1), the Agency shall immediately return the protest with a description of the needed information. If the protest with all required information is refiled within 10 days of the date the Agency mailed it back to the employing unit, the protest shall be considered filed on the date the Agency originally received it. In no event shall the Agency return an inadequate protest more than once. In the event that a protest does not meet the sufficiency requirements of subsection (d)(1) after being returned to the employing unit once, the Adjudicator shall determine the protest to be insufficient. A Determination Decision that a protest is insufficient may be appealed pursuant to Section 2720.200.

(Source: Amended at 13 Ill. Reg. 18263, effective 11/9/89.)

Section 2720.132 Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work

- a) Whenever an employer discharges an individual for an alleged felony or theft in connection with his work, the employer shall notify the Agency of the separation.

- b) The notification required by subsection (a) shall include the name of the individual discharged, his social security number, the name of the employer, its mailing address, its Illinois Employer Account Number, and the date of separation.

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c) If the notification required by subsection (a) meets the sufficiency requirements of Section 602B of the Act and is mailed to the Agency within at least 10 days after the date that the individual files his next claim for benefits, then such employer shall be a party to the Agency's determination of eligibility under Section 602(B).

d) Except when the notification is being made in response to a "Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party", the notification required by subsection (a) must be sent to:
Illinois Department of Employment Security
401 South State Street, 3 South
Chicago, IL 60605
Attn: Felony and Theft Unit.

(Source: Added at 13 Ill. Reg. 18263, effective 11/9/89)

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1) Heading of the Part: Hazardous Waste Management System: General

2) Code Citation: 35 Ill. Adm. Code 720

3) Section Numbers: 720.110, 720.111
Adopted Action: Amendments

4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.

5) Effective Date of Amendment: November 13, 1989

6) Does this rulemaking contain an automatic repeal date?: No.

7) Does this amendment contain incorporations by reference?

Yes. Section 720.111 incorporates standards and guidelines of nationally recognized organizations and rules and guidelines of federal agencies. Section 22.4(a) of the Environmental Protection Act (1988 Supp. to 111. Rev. Stat. ch. 111 1/2 par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply.

8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.

9) Notice of Proposal Published in Illinois Register:

June 30, 1989; 13 Ill. Reg. 9661

10) Has JCAR issued a Statement of Objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposal and final version:

Minor editorial differences.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

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13) Will this amendment replace an emergency amendment currently in effect?
No.

14) Are there any other amendments pending on this Part? No.

15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

Most of the changes to the definitions are editorial revisions to improve cross references. Others relate to tank systems or miscellaneous units.
Incorporations by reference have been updated to reflect current editions of several of the documents.

16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 1: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section 720.101 Purpose, Scope and Applicability
720.102 Availability of Information; Confidentiality of Information
720.103 Use of Number and Gender

SUBPART B: DEFINITIONS

Section 720.110 Definitions
720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.120 Rulemaking
720.121 Alternative Equivalent Testing Methods
720.122 Waste Delisting
720.130 Procedures for Solid Waste Determinations
720.131 Solid Waste Determinations
720.132 Boiler Determinations
720.133 Procedures for Determinations
720.140 Additional regulation of certain hazardous waste Recycling Activities on a case-by-case basis
720.141 Procedures for case-by-case regulation of hazardous waste Recycling Activities

Appendix A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 111. Reg. 9781, effective as noted in 35 111. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 111. Reg. 4828, effective as noted in 35 111. Adm. Code 700.106; amended in R82-19 at 7 111. Reg. 14015, effective Oct. 12, 1983; amended in R84-9, 53 PCB 131 at 9 111. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 111. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 111. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 111. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 111. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 111. Reg. 13435, effective

August 4, 1987; amended in R87-5 at 11 111. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 111. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 111. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 111. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 111. Reg. 18278 effective November 13, 1989.

SUBPART B: DEFINITIONS

Section 720.110 Definitions

When used in 35 111. Adm. Code 720 through 725 and 728 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of "tank" that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.)

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion".)

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or ~~his~~ the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps, that is used to distribute, meter or control the flow of hazardous waste from its point of generation to storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; and the unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed Portion" means that portion of a facility which an owner or

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operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage or disposal facility which has received an EPA permit (or a facility with interim status) in accordance with the requirements of 40 CFR 220 and 224 or a permit from a state authorized in accordance with 40 CFR 271 or that is regulated under 40 CFR 261.6(c)(2) or 40 CFR 266. Subpart F or 35 Ill. Adm. Code 721.106(c)(2) or 726. Subpart F and that has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids or other materials.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or

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intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or are listed in 35 Ill. Adm. Code 721. Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in this Section- 720.118--.

"EPA" or "USEPA" means United States Environmental Protection Agency.

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in 35 Ill. Adm. Code 721. Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721. Subpart C.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator, transporter and treatment, storage or disposal facility.

"EPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia

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Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana and Texas

Region VII: Nebraska, Kansas, Missouri and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho and Alaska

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction and either

A continuous on-site, physical construction program had begun or the owner or operator had entered into contractual obligations -- which could not be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either

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A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be canceled or modified without substantial loss -- for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (e.g., one or more landfills, surface impoundments or combinations of them).

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Federal agency" means any department, agency or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation and the Government Printing Office.

"Federal, state and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

"Food-chain crops" means tobacco, crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produce hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of

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saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent which caused the hazardous waste to be listed in 35 Ill. Adm. Code 721. Subpart D, or a constituent listed in of 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

"Incinerator" means any enclosed device using controlled flame combustion which is neither a "boiler" nor an "industrial furnace".

"Incompatible waste" means a hazardous waste which is suitable for:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.

(See 35 Ill. Adm. Code 725. Appendix E for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

Cement kilns
Lime kilns

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Aggregate kilns

Phosphate kilns

Coke ovens

Blast furnaces

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces)

Titanium dioxide chloride process oxidation reactors

Methane reforming furnaces

Pulping liquor recovery furnaces

Combustion devices used in the recovery of sulfur values from spent sulfuric acid

Any other such device as the Agency determines to be an "Industrial Furnace" on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more

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sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Inground tank" means a device meeting the definition of "tank" whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility which is treating, storing or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection".)

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, an underground mine or a cave.

"Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill or landfill cell, which restricts the downward or lateral escape of

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hazardous waste, hazardous waste constituents or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

"Manifest" means the shipping document originated and signed by the generator which contains the information required by 35 Ill. Adm. Code 722. Subpart B.

"Manifest document number" means the USEPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored or disposed of and which is not a container, tank, tank system, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 35 Ill. Adm. Code 730, or a unit eligible for a research, development and demonstration permit under 35 Ill. Adm. Code 703.231.

"Movement" means that hazardous waste transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced, after November 19, 1980. (See also "Existing hazardous waste management facility".)

"New tank system" or "new tank component" means a tank system or

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component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system.")

"Onground tank" means a device meeting the definition of "tank" that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment".)

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person who owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility which contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company,

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federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body.

"personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

"pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage.

"point source" means any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "state" or "municipality" (as defined by Section 502(4) of the Clean Water Act (33 U.S.C. 1362(4))). This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment as defined in 35 Ill. Adm. Code 310.110.

"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or his the Regional Administrator's designee.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC Code" means Standard Industrial Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

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"Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Small Quantity Generator" means a generator which generates less than 1000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment or disposal facilities.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation or diked area formed primarily of earthen materials (although it may be lined with manmade materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation and microwave discharge. (See also "incinerator" and "open

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burning".)

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

"Treatability study" means:

A study in which a hazardous waste is subjected to a treatment process to determine:

Whether the waste is amenable to the treatment process.

What pretreatment (if any) is required.

The optimal process conditions needed to achieve the desired treatment.

The efficiency of a treatment process for a specific waste or wastes. Or,

The characteristics and volumes of residuals from a particular treatment process.

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of

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hazardous waste.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste or so as to render such waste non-hazardous or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well".)

"Underground tank" means a device meeting the definition of "tank" whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"USEPA" means United States Environmental Protection Agency.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

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"Wastewater treatment unit" means a device which:

Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 301(b) of the Clean Water Act (33 U.S.C. 1342 or 1311(b)) has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310; and

-Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

Meets the definition of tank or tank system in -35 Ill. Adm. Code 720.110-this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection").

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 13 Ill. Reg. 18278 effective Nov. 13, 1989)

Section 720.111 References

a) The following publications are incorporated by reference:

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300:

--Petroleum Refinery Piping, ANSI B31.3 -- 1976, with addendum B31.3(d) -- 1980-ANSI B31.3 and B31.4. See ASME/ANSI B31.3 and B31.4

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~~"Liquid Petroleum Transportation Piping Systems," ANSI B31.4 -- 1974, with addendum B31.4(b) -- 1981.~~

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, (202) 682-8000:

"Guide for Inspection of Refinery Equipment, Chapter XIII, Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December, 1987.

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API ~~Publication 1632~~, 1983-Recommended Practice 1632, Second Edition, December, 1987.

"Installation of Underground Petroleum Storage Systems," API ~~Publication 1615 (November 1979)~~ Recommended Practice 1615, Fourth Edition, November, 1987.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, (212) 705-7722:

"Chemical Plant and Petroleum Refinery Piping," ASME/ANSI B31.3 -- 1987, as supplemented by B31.3a -- 1988 and B31.3b -- 1988. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI B31.4 -- 1986, as supplemented by B31.4a -- 1987. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400:

"ASTM Standard Test Methods for Flash Point of Liquids by Setflash Closed Tester," ASTM Standard D-3828-87.

"ASTM Standard Test Methods for Flash Point Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80.

6P0. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983

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NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, (713) 492-0535:

~~"Recommended Practice (RP-02-85) - Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems."~~ NACE Recommended Practice RP0285-85, approved March, 1985.

NFPA. Available from the National Fire Protection Association, Batterymarch Park, Boston, MA 02269, (617) 770-3000 or (800) 344-3555:

~~"Flammable and Combustible Liquids Code" (1977 or 1981) - NFPA 30, issued July 17, 1987. Also available from ANSI.~~

NTIS. Available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600:

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," EPA/530-SW-87-011, March 15, 1987. (Document number PB 88-170766.

"Methods for Chemical Analysis of Water and Wastes," Third Edition, March, 1983. (Document number PB 84-128677)

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities," EPA-530/SW-611, 1977. (Document number PB 84-174820)

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication number SW-846 (Second Edition, 1982 as amended by Update I (April, 1984) and Update II (April, 1985)) (Document number PB 87-120291)

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, (312) 498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986).

b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

10 CFR 20, Appendix B (1988)

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40 CFR 136 (1988)40 CFR 142 (1988)40 CFR 220 -~~(1987)~~-(1988)40 CFR 260.20 (1988)40 CFR 264 -~~(1987)~~-(1988)40 CFR 302.4, 302.5 and 302.6 (1988)40 CFR 761 -~~(1987)~~-(1988)

c) Federal Statutes

Section 3004 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as amended through December 31, 1987.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 13 Ill. Reg. 18278, effective Nov. 13, 1989)

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1) Heading of the Part: Identification and Listing of Hazardous Waste2) Code Citation: 35 Ill. Adm. Code 7213) Section Numbers:

721.104, 721.132, 721.133, 721.App 6, 721.App H Amendments

Adopted Action:4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.5) Effective Date of Amendment: November 13, 19896) Does this rulemaking contain an automatic repeal date?: No.7) Does this amendment contain incorporations by reference? No.8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.9) Notice of Proposal Published in Illinois Register:

June 30, 1989; 13 Ill. Reg. 9683

10) Has JCAR issued a Statement of Objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposal and final version:

Minor editorial differences.

In Section 721.104(b)(7)(C) and listing K066 in Section 721.132, the Board has delayed the compliance date to June 30, 1990.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

13) Will this amendment replace an emergency amendment currently in effect?
No.

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14) Are there any other amendments pending on this Part? No.

15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

Certain smelter wastes have been listed as K064 through K091 in Section 721.132, and the bases added to Appendix G. The Board has delayed the compliance date for K066 until June 30, 1990. Iron dextran and strontium sulfide have been delisted from Section 721.133, and dropped from the list of hazardous constituents in Appendix H.

16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Purpose of Scope
Definition of Solid Waste
Definition of Hazardous Waste
Exclusions
Special Requirements for Hazardous Waste Generated by Small Quantity Generators
Requirements for Recyclable Materials
Residues of Hazardous Waste in Empty Containers

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

Criteria for Identifying the Characteristics of Hazardous Waste
Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

General
Characteristics of Ignitability
Characteristics of Corrosivity
Characteristics of Reactivity
Characteristics of EP Toxicity

SUBPART D: LISTS OF HAZARDOUS WASTE

General
Hazardous Wastes From Nonspecific Sources
Hazardous Waste From Specific Sources
Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof

Representative Sampling Methods
EP Toxicity Test Procedures
Chemical Analysis Test Methods
Analytical Characteristics of Organic Chemicals (Repeated)
Analytical Characteristics of Inorganic Species (Repeated)
Sample Preparation/Sample Introduction Techniques (Repeated)
Basis for Listing Hazardous Wastes

Section
721.130
721.131
721.132
721.133

Section
721.110
721.111

Section
721.120
721.121
721.122
721.123
721.124

Section
721.101
721.102
721.103
721.104
721.105
721.106
721.107

Appendix A
Appendix B
Appendix C
Table A
Table B
Table C

Appendix G

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Appendix H Hazardous Constituents
 Appendix I Wastes Excluded under Section 720.120 and 720.122
 Table A Wastes Excluded from Non-Specific Sources
 Table B Wastes Excluded from Specific Sources
 Table C Wastes Excluded from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues

Appendix J Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans
 Appendix Z Table to Section 721.102

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 111. Reg. 9781, effective as noted in 35 111. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 111. Reg. 4828, effective as noted in 35 111. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 111. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 111. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 111. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 111. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 111. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 111. Reg. 8112, effective May 2, 1986; amended in R86-19 at 10 111. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 111. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 111. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 111. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 111. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 111. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 111. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 111. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 111. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 111. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 111. Reg. 18300, effective Nov. 13, 1989.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this Part:

- 1) Sewage:
 - A) Domestic sewage; and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works

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for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

- 2) Industrial wastewater discharges that are point source discharges with NPDES permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act and 35 111. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.
- 4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)
- 5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless accumulated speculatively as defined in Section 721.101(c);
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process, provided:
 - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel, or

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used to produce products that are used in a manner constituting disposal.

b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes:

1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this Part, if such facility:

A) Receives and burns only:

i) Household waste (from single and multiple dwellings, hotels, motels and other residential sources) and

ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

B) Such facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

2) Solid wastes generated by any of the following and which are returned to the soil as fertilizers:

A) The growing and harvesting of agricultural crops.

B) The raising of animals, including animal manures.

3) Mining overburden returned to the mine site.

4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

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6) Chromium wastes:

A) Wastes which fail the test for the characteristic of EP toxicity (Section 721.124 and Appendix B) because chromium is present or are listed in Subpart D due to the presence of chromium, which do not fail the test for the characteristic of EP toxicity for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

ii) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii) The waste is typically and frequently managed in non-oxidizing environments.

B) Specific wastes which meet the standard in subsections (b)(6)(A)(i), (ii) and (iii) (so long as they do not fail the test for the characteristic of EP toxicity, and do not fail the test for any other characteristic) are

i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

iv) Sewer screenings generated by the following

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subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

- v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

- vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

- vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

- viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.

- 7) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore. For the purposes of this subsection, solid waste from the processing of ores and minerals does not include:

- A) Acid plant blowdown slurry or sludge resulting from the thickening of blowdown slurry from primary copper production;
- B) Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities;
- C) After June 30, 1990, sludge from treatment of process wastewater or acid plant blowdown from primary zinc production;
- D) Spent potliners from primary aluminum reduction;
- E) Emission control dust or sludge from ferrochromium/silicon production; and

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- F) Emission control dust or sludge from ferrochromium production.

- 8) Cement kiln dust waste.

- 9) Solid waste which consists of discarded wood or wood products which fails the test for the characteristic of Ep toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

- c) Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, 705 and 722 through 725 and 728 or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

- d) Samples

- 1) Except as provided in subsection (d)(2), a sample of solid waste or a sample of water, soil or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, 705 and 722 through 728. The sample qualifies when:

- A) The sample is being transported to a laboratory for the purpose of testing; or
- B) The sample is being transported back to the sample collector after testing; or
- C) The sample is being stored by the sample collector before transport to a laboratory for testing; or
- D) The sample is being stored in a laboratory before testing; or
- E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or

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F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

2) In order to qualify for the exemption in subsection (d)(1)(A) and (B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

A) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS) or any other applicable shipping requirements; or

B) Comply with the following requirements if the sample collector determines that DOT, USPS or other shipping requirements do not apply to the shipment of the sample:

i) Assure that the following information accompanies the sample: The sample collector's name, mailing address and telephone number; the laboratory's name, mailing address and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample.

ii) Package the sample so that it does not leak, spill or vaporize from its packaging.

3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).

e) Treatability study samples.

1) Except as is provided in subsection (e)(2), persons who generate or collect samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

A) The sample is being collected and prepared for transportation by the generator or sample collector; or,

B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

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C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

A) The generator or sample collector uses (in "treatability studies") no more than 1000 kg of any non-acute hazardous waste, 1 kg of acute hazardous waste or 250 kg of soils, water or debris contaminated with acute hazardous waste for each process being evaluated for each generated wastestream; and

B) The mass of each shipment does not exceed 1000 kg of non-acute hazardous waste, 1 kg of acute hazardous waste or 250 kg of soils, water or debris contaminated with acute hazardous waste; and

C) The sample must be packaged so that it does not leak, spill or vaporize from its packaging during shipment and the requirements of subsections (i) or (ii) are met.

i) The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS) or any other applicable shipping requirements; or

ii) If the DOT, USPS or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address and telephone number of the originator of the sample; the name, address and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number.

D) The sample is shipped to a laboratory or testing facility which is exempt under subsection (f) or has an appropriate RCRA permit or interim status.

E) The generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

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- i) Copies of the shipping documents;
- ii) A copy of the contract with the facility conducting the treatability study;
- iii) Documentation showing: The amount of waste shipped under this exemption; the name, address and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and, whether or not unused samples and residues were returned to the generator.

F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.

3) The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsection (e)(2)(A), for up to an additional 500 kg of any non-acute hazardous waste, 1 kg of acute hazardous waste and 250 kg of soils, water or debris contaminated with acute hazardous waste, to conduct further treatability study evaluation when: There has been an equipment or mechanical failure during the conduct of the treatability study; there is need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or, there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (F). The generator or sample collector must apply to the Agency and provide in writing the following information:

- A) The reason why the generator or sample collector requires additional quantity of sample for the treatability study evaluation and the additional quantity needed;
- B) Documentation accounting for all samples of hazardous waste from the wastestream which have been sent for or undergone treatability studies, including the date each previous sample was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
- C) A description of the technical modifications or change in

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specifications which will be evaluated and the expected results;

D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment have been made to protect against further breakdowns; and,

E) Such other information as the Agency determines is necessary.

4) Final Agency determinations pursuant to this subsection may be appealed to the Board.

f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 705, 722 through 726, and 728, or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act, provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection.

2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.

3) No more than a total of 250 kg of "as received" hazardous waste is subjected to initiation of treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 1000 kg, the total of which can include 500 kg of soils, water or debris contaminated with acute hazardous waste or 1 kg of acute hazardous waste. This quantity limitation does not include:

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- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for 3 years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
- A) The name, address and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency by March 15 of each year that estimates the number of studies and

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the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

- A) The name, address and USEPA identification number of the facility conducting the treatability studies;
- B) The types (by process) of treatability studies conducted;
- C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
- D) The total quantity of waste in storage each day;
- E) The quantity and types of waste subjected to treatability studies;
- F) When each treatability study was conducted;
- G) The final disposition of residues and unused sample from each treatability study;
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703 and 721 through 728, unless the residues and unused samples are returned to the sample originator under the subsection (e) exemption.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.

(Source: Amended at 13 Ill. Reg. 18300, effective Nov. 13, 1989)

SUBPART D: LISTS OF HAZARDOUS WASTE

Section 721.132 Hazardous Waste from Specific Sources

The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Appendix I.

EPA Hazardous Waste No.

Industry and Hazardous Waste

Hazard Code

Wood Preservation:

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K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T)
Inorganic Pigments:		
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	(T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	(T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	(T)
K005	Wastewater treatment sludge from the production of chrome green pigments.	(T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	(T)
K007	Wastewater treatment sludge from the production of iron blue pigments.	(T)
K008	Oven residue from the production of chrome oxide green pigments.	(T)
Organic Chemicals:		
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	(T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	(T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	(R,T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	(T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	(T)
K015	Still bottoms from the distillation of benzyl chloride.	(T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	(T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	(T)
K018	Heavy ends from the fractionation column in ethyl chloride production.	(T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	(T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	(T)
K021	Aqueous spent antimony catalyst waste from	(T)

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K022	Fluoromethanes production.	(T)
K023	Distillation bottom tars from the production of phenol/acetone from cumene.	(T)
K024	Distillation light ends from the production of phthalic anhydride from naphthalene.	(T)
K025	Distillation bottoms from the production of phthalic anhydride from naphthalene.	(T)
K026	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	(T)
K027	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	(T)
K028	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	(T)
K029	Stripping still tails from the production of methyl ethyl pyridines.	(T)
K030	Centrifuge and distillation residues from toluene diisocyanate production.	(R,T)
K031	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	(T)
K032	Waste from the product stream stripper in the production of 1,1,1-trichloroethane.	(T)
K033	Distillation bottoms from the production of 1,1,1-trichloroethane.	(T)
K034	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	(T)
K035	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene.	(T)
K036	Distillation bottoms from aniline production.	(T)
K037	Process residues from aniline extraction from the production of aniline.	(T)
K038	Combined wastewater streams generated from nitrobenzene/aniline production.	(T)
K039	Distillation or fractionation column bottoms from the production of chlorobenzenes.	(T)
K040	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.	(G,T)
K041	Product wastewaters from the production of dinitrotoluene via nitration of toluene.	(T)
K042	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.	(T)
K043	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	(T)
K044	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	(T)
K045	Heavy ends from the purification of	(T)

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K116	toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	(T)	K040	Wastewater treatment sludge from the production of phorate.	(T)
K117	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluediamine.	(T)	K041	Wastewater treatment sludge from the production of toxaphene.	(T)
K118	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.	(T)	K098	Untreated process wastewater from the production of toxaphene.	(T)
K136	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	(T)	K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.	(T)
K071	Inorganic Chemicals: Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.	(T)	K043	2,6-Dichlorophenol waste from the production of 2,4-D.	(T)
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production.	(T)	K099	Untreated wastewater from the production of 2,4-D.	(T)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production.	(T)	K123	Process wastewater (including supernates, filtrates and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.	(T)
			K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.	(C,T)
			K125	Filtration, evaporation and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts	(T)
			K126	Baghouse dust and floor sweepings in milling and packaging operations from the production of ethylenebisdithiocarbamic acid and its salts.	(T)
				Explosives:	
	Pesticides:		K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	(R)
K031	By-product salts generated in the production of MSMA and cacodylic acid.	(T)	K045	Spent carbon from the treatment of wastewater containing explosives.	(R)
K032	Wastewater treatment sludge from the production of chlordane.	(T)	K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	(T)	K047	Pink/red water from TNT operations.	(R)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	(T)		Petroleum Refining:	
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.	(T)	K048	Dissolved air flotation (DAF) float from the petroleum refining industry.	(T)
K035	Wastewater treatment sludges generated in the production of creosote.	(T)	K049	Slip oil emulsion solids from the petroleum refining industry.	(T)
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	(T)	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.	(T)
K037	Wastewater treatment sludges from the production of disulfoton.	(T)	K051	API separator sludge from the petroleum refining industry.	(T)
K038	Wastewater from the washing and stripping of phorate production.	(T)	K052	Tank bottoms (leaded) from the petroleum refining industry.	(T)
K039	Filter cake from the filtration of diethylphosphorothioic acid in the production of phorate.	(T)			

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Iron and Steel:

- K061 Emission control dust/sludge from the primary production of steel in electric furnaces. (T)
K062 Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332) (as defined in 35 Ill. Adm. Code 720.110). (C,T)

Primary Copper:

- K064 Acid plant blowdown slurry or sludge resulting from the thickening of blowdown slurry from primary copper production. (T)

Primary Lead:

- K065 Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)

Primary Zinc:

- K066 After June 30, 1990, sludge from treatment of process wastewater or acid plant blowdown from primary zinc production. (T)

Primary Aluminum:

- K088 Spent potliners from primary aluminum reduction. (T)

Ferroalloys:

- K090 Emission control dust or sludge from ferrochromiumsilicon production. (T)

- K091 Emission control dust or sludge from ferrochromium production. (T)

Secondary Lead:

- K069 Emission control dust/sludge from secondary lead smelting. (T)
K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)

Veterinary Pharmaceuticals:

- K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from (T)

- K101 arsenic or organo-arsenic compounds. Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organoarsenic compounds. (T)

- K102 Residue from use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

Ink Formulation:

- K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tups and equipment used in the formulation of ink from pigments, driers, soaps and stabilizers containing chromium and lead. (T)

Coking:

- K060 Ammonia still lime sludge from coking operations. (T)
K087 Decanter tank tar sludge from coking operations. (T)

(Source: Amended at 13 Ill. Reg. 18300, effective Nov. 13, 1989)

Section 721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Section 721.102(a)(2)(A), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel.

- a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in subsections (e) or (f).
- b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsections (e) or (f).
- c) Any residue remaining in a container or inner liner removed from a container that has held any commercial chemical product or

manufacturing chemical intermediate having the generic name listed in subsection (e), unless the container is empty as defined in Section 721.107(b)(3).

BOARD NOTE: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed, or being accumulated, stored, transported or treated prior to such use, reuse, recycling or reclamation, the Board considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate reuse of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

- (d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (e) or (f), or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (e) or (f).

BOARD NOTE: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in ..." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in subsections (e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in subsections (e) or (f), such waste will be listed in either Sections 721.131 or 721.132 or will be identified as a hazardous waste by the characteristics set forth in Subpart C.

- (e) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in subsections (a) through (d), are identified as acute hazardous waste (H) and are subject to the small quantity exclusion defined in Section 721.105(e). These wastes and their corresponding EPA Hazardous Waste Numbers are:

BOARD NOTE: For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound only is listed for acute toxicity.

Hazardous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H ₃ AsO ₄
P012	1327-53-3	Arsenic oxide As ₂ O ₃
P011	1303-28-2	Arsenic oxide As ₂ O ₅
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsinous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzenethanamine, alpha, alpha-dimethyl-
P014	108-98-5	Benzenethiol
P001 P	81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium
P017	598-31-2	Bromacetone

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P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, 0-[methylamino]carbonyl] oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide CuCN
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride CNCl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Diethrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	0,0-Diethyl 0-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DIP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8a-hexahydro-, (1a)pha, 4a)pha, 4abeta, 5a)pha, 8a)pha, 8abeta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8a-hexahydro-, (1a)pha, 4a)pha, 4abeta, 5beta, 8beta, 8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1a)pha, 2beta, 2a)pha, 3beta, 6beta, 6a)pha, 7beta, 7a)pha)-, and metabolites
P051 P	72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1a)pha, 2beta, 2a)pha, 3a)pha, 3a)pha, 6abeta, 7beta, 7a)pha)-, and metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P047 P	534-52-1	4,6-Dinitro-o-cresol and salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramide, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton

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P049	541-53-7	Dithioburet
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, and metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P066	16752-77-5	Ethanimidothioic acid, N-[[methylamino]carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethylentimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P065	628-86-4	Fulminic acid, mercury (2+) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P007	2763-96-4	3(2H)-Isoxazalone, 5-(aminomethyl)-
P092	62-38-4	Mercury, (acetato-0)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis(chloro-
P112	509-14-8	Methane, tetrantiro- (R)
P118	75-70-7	Methanethiol, trichloro-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathienep, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methylacetonitrile
P071	298-00-0	Methyl parathion
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) ₄ , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) ₂
P075 P	54-11-5	Nicotine, and salts
P076	10102-43-9	Nitric oxide

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P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO ₂
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramide
P087	20816-12-0	Osmium oxide OsO ₄ , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4-dinitro-
P047	534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, 0,0-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, 0,0-diethyl S-[2-(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, 0,0-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methyl-ethyl) ester
P089	56-38-2	Phosphorothioic acid, 0,0-diethyl 0-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, 0-[4-(dimethylamino)sulfonyl]phenyl] 0,0-dimethyl ester
P071	298-00-0	Phosphorothioic acid, 0,0-dimethyl 0-(4-nitrophenyl) ester
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide KCN
P099	506-61-6	Potassium silver cyanide
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, 0-[methylamino]carbonyl]oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate- (R)
P017	598-31-2	2-Propanone, 1-bromo-

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P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	4-Pyridinamine
P075	54-11-5	Pyridine, 3-(1-methyl-2-pyrroliidinyl)-, (S)- and salts
P114	12039-52-0	Selenious acid, dithallium (1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide AgCN
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide NaCN
P107	1314-96-1	Stearic acid
P107	1314-96-1	Stearic acid SFS-
P108	57-24-9	Strychnidin-10-one, and salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	57-24-9	Strychnine and salts
P115	7446-18-6	Sulfuric acid, dithallium (1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethylpyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallous oxide
P113	1314-32-5	Thallium oxide Tl ₂ O ₃
P114	12039-52-0	Thallium (I) selenite
P115	7446-18-6	Thallium (I) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodiphenyl carbamate [(H ₂ N)C(S)] ₂ NH
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V ₂ O ₅
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	81-81-2	Warfarin, and salts, when present at concentrations greater than 0.3%.
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) ₂

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P122 1314-84-7 Zinc phosphide Zn_3P_2 , when present at concentrations greater than 10% (R,T)

- f) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products referred to in subsections (a) through (d), are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in Section 721.105(a) and (g). These wastes and their corresponding EPA Hazardous Waste Numbers are:

BOARD NOTE: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.

Hazardous Chemical Waste Abstracts No. Substance

U001 75-07-0 Acetaldehyde (I)
U034 75-87-6 Acetaldehyde, trichloro-
U187 62-44-2 Acetamide, N-(4-ethoxyphenyl)-
U005 53-96-3 Acetamide, N-9H-fluorene-2-yl-
U240 P 94-75-7 Acetic acid, (2,4-dichlorophenoxy)-, salts and esters
U112 141-73-6 Acetic acid, ethyl ester (I)
U144 301-04-2 Acetic acid, lead (2+) salt
U214 563-68-8 Acetic acid, thallium (1+) salt
See
F207 93-76-5 Acetic acid, (2,4,5-trichlorophenoxy)-
U002 67-64-1 Acetone (I)
U003 75-05-8 Acetonitrile (I,T)
U004 98-86-2 Acetophenone
U005 53-96-3 2-Acetylaminofluorene
U006 75-36-5 Acetyl chloride (C,R,T)
U007 79-06-1 Acrylamide
U008 79-10-7 Acrylic acid (I)
U009 107-13-1 Acrylonitrile
U011 61-82-5 Amitrole
U012 62-53-3 Aniline (I,T)
U136 75-60-5 Arsinic acid, dimethyl-
U014 492-80-8 Auramine
U015 113-02-6 Azaserine
U010 50-07-7 Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[amino-carbonyl]oxy[methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl]-, [1a-5-(1a1pha,8beta,8a1pha,8b1pha)]-

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U157 56-49-5 Benz[e]aceanthrylene, 1,2-dihydro-3-methyl-
U016 225-51-4 Benz(c)acridine
U017 98-87-3 Benzal chloride
U192 23950-58-5 Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propenyl)-
U018 56-55-3 Benz[a]anthracene
U094 57-97-6 Benz[a]anthracene, 7,12-dimethyl-
U012 62-53-3 Benzenamine (I,T)
U014 492-80-8 Benzenamine, 4,4'-carbonyl di[bis[N,N-dimethyl]-
U049 3165-93-3 Benzenamine, 4-chloro-2-methyl-, hydrochloride
U093 60-11-7 Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328 95-53-4 Benzenamine, 2-methyl-
U353 106-49-0 Benzenamine, 4-methyl-
U158 101-14-4 Benzenamine, 4,4'-methylenebis[2-chloro-
U222 636-21-5 Benzenamine, 2-methyl-, hydrochloride
U181 99-55-8 Benzenamine, 2-methyl-5-nitro-
U019 71-43-2 Benzene (I,T)
U038 510-15-6 Benzenoacetic acid, 4-chloro-a]pha-(4-chlorophenyl)-
alpha-hydroxy-, ethyl ester
U030 101-55-3 Benzene, 1-bromo-4-phenox-
U035 305-03-3 Benzenobutanoic acid, 4-bis(2-chloroethyl)amino]-
U037 108-90-7 Benzene, chloro-
U221 25376-45-8 Benzenediamine, ar-methyl-
U028 117-81-7 1,2-Benzenedicarboxylic acid, bis(2-ethyl ester
U069 84-74-2 1,2-Benzenedicarboxylic acid, diethyl ester
U088 84-66-2 1,2-Benzenedicarboxylic acid, diethyl ester
U102 131-11-3 1,2-Benzenedicarboxylic acid, dimethyl ester
U107 117-84-0 1,2-Benzenedicarboxylic acid, diethyl ester
U070 95-50-1 Benzene, 1,2-dichloro-
U071 541-73-1 Benzene, 1,3-dichloro-
U072 106-46-7 Benzene, 1,4-dichloro-
U060 72-54-8 Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U017 98-87-3 Benzene, (dichloromethyl)-
U223 26471-62-5 Benzene, 1,3-disocyanatomethyl- (R,T)
U239 1330-20-7 Benzene, dimethyl- (I,T)
U201 108-46-3 1,3-Benzenediol
U127 118-74-1 Benzene, hexachloro-
U056 110-82-7 Benzene, hexahydro- (I)
U220 108-88-3 Benzene, methyl-
U105 121-14-2 Benzene, 1-methyl-2,4-dinitro-
U106 606-20-2 Benzene, 2-methyl-1,3-dinitro-
U055 98-82-8 Benzene, (1-methylethyl)- (I)
U169 98-95-3 Benzene, nitro-
U183 608-93-5 Benzene, pentachloro-
U185 82-68-8 Benzene, pentachloronitro-
U020 98-09-9 Benzenesulfonic acid chloride (C,R)
U020 98-09-9 Benzenesulfonyl chloride (C,R)
U207 95-94-3 Benzene, 1,2,4,5-tetrachloro-
U061 50-29-3 Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-

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U247	72-43-5	chloro- benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)-
U234	99-35-4	Benzene, 1,3,5-trinitro-
U021	92-87-5	Benzidine
U202 P	81-07-2	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, and salts
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U064	189-55-9	Benzofrst]pentaphene
U248 P	81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations of 0.3% or less
U022	50-32-8	Benzolajylene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U225	75-25-2	Bromoforn
U030	101-55-3	4-bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (1)
U159	78-93-3	2-Butanone (1,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (1,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrolizin-1-yl ester, [1S-[1a]pha(2), 7(2S*,3R*), 7a]lpha]]-
U031	71-36-3	n-Butyl alcohol (1)
U136	75-60-5	Calcyllic acid
U032	13765-19-0	Calcium chromate
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114 P	111-54-6	Carbamodithioic acid, 1,2-ethanediybis-, salts and esters
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U215	6533-73-9	Carbonic acid, dithallium (1+) salt
U033	353-50-4	Carbonic difluoride
U156	79-22-1	Carbonochloridic acid, methyl ester (1,T)

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U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane]pha and gamma isomers
U026	494-03-1	Chloraphazin
U037	108-90-7	Chlorobenzene
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroforn
U046	107-30-2	Chloromethyl methyl ether
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U032	13765-19-0	Chromic acid H ₂ CrO ₄ , calcium salt
U050	218-01-9	Chrysene
U051		Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (1)
U246	506-68-3	Cyanogen bromide CNBr
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U056	110-82-7	Cyclohexane (1)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1a]pha,2a]pha,3beta,4a]pha,5a]pha,6beta)-
U057	108-94-1	Cyclohexanone (1)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	50-18-0	Cyclophosphamide
U240 P	94-75-7	2,4-D, salts and esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDT
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzol[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Diethyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	1,4-Dichloro-2-butene (1,T)
U075	75-71-8	Dichlorodifluoromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-4	Dichloroethyl ether
U027	108-60-1	Dichloroisopropyl ether

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U024	111-91-1	Dichloromethoxy ethane
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2:3,4-Diepoxybutane (1,T)
U108	123-91-1	1,4-Diethylenoxide
U028	117-81-7	Diethylhexyl phthalate
U086	1615-80-1	N,N'-Diethylhydrazine
U087	3288-58-2	0,0-Diethyl S-methyl dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbestrol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (1)
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha, alpha-Dimethylbenzylhydroperoxide (R)
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (1)
U111	621-64-7	Di-n-propylnitrosamine
U041	106-89-8	Epichlorohydrin
U001	75-07-0	Ethanal (1)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-[Methylenbis(oxy)]bis[2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis-(1)
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U226	71-55-6	Ethane, 1,1,1-trichloro-

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U227	79-00-5	Ethane, 1,1,2-trichloro-
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro-
U228	79-01-6	Ethene, trichloro-
U112	141-78-6	Ethyl acetate (1)
U113	140-88-5	Ethyl acrylate (1)
U238	51-79-6	Ethyl carbamate (urethane)
U117	60-29-7	Ethyl ether
U114	111-54-6	Ethylenebisithiocarbamic acid, salts and esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monomethyl ether
U115	75-21-8	Ethylene oxide (1,T)
U116	96-45-7	Ethylenethiourea
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (1)
U125	98-01-1	2-Furancarboxaldehyde (1)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro- (1)
U125	98-01-1	Furfural (1)
U124	110-00-9	Furfuran (1)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[[methylnitrosamino]-carbonyl]amino]-
U126	765-34-4	Glycidylaldehyde
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1'-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-

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U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H ₂ S
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U139	9984-66-4	Free dextran-
U190	85-44-9	1,3-Isobenzofuranidione
U140	78-83-1	Isobutyl alcohol (1,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U143	303-34-4	Lasiocarpene
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-0)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U163	70-25-7	MNNG
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (1,T)
U092	124-40-3	Methanamine, N-methyl- (1)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (1,T)
U046	107-30-2	Methane, chloromethoxy-
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U138	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-
U153	74-93-1	Methanethiol (1,T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U154	67-56-1	Methanol (1)
U155	91-80-5	Methapyrene
U142	143-50-0	1,3,4-Metheno-2H-cyclobutylpentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (1)

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U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (1)
U045	74-87-3	Methyl chloride (1,T)
U156	79-22-1	Methyl chlorocarbonate (1,T)
U226	71-55-6	Methylchloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (1,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (1)
U162	80-62-6	Methyl methacrylate (1,T)
U161	108-10-1	4-Methyl-2-pentanone (1)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexapyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U167	134-32-7	1-Naphthalenamine
U168	91-59-8	2-Naphthalenamine
U026	494-03-1	Naphthaleneamine, N,N'-bis(2-chloroethyl)-
U165	91-20-3	Naphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-1,1'-biphenyl]-4,4'-diyl]bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U217	10102-45-1	Nitric acid, thallium (1+) salt
U169	98-95-3	Nitrobenzene (1,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (1,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodietanolamine
U174	55-18-5	N-Nitrosodietylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine
U181	99-55-8	5-Nitro-o-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide

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U115 75-21-8 Oxirane (1,T)
U126 765-34-4 Oxiranecarboxaldehyde
U041 106-89-8 Oxirane, (chloromethyl)-
U182 123-63-7 Paraldehyde
U183 608-93-5 Pentachlorobenzene
U184 76-01-7 Pentachloroethane
U185 82-68-8 Pentachloronitrobenzene (PCNB)
See
F027 87-86-5 Pentachlorophenol
U161 108-10-1 Pentanol, 4-methyl-
U186 504-60-9 1,3-Pentadiene (1)
U187 62-44-2 Phenacetin
U188 108-95-2 Phenol
U048 95-57-8 Phenol, 2-chloro-
U039 59-50-7 Phenol, 4-chloro-3-methyl-
U081 120-83-2 Phenol, 2,4-dichloro-
U082 87-65-0 Phenol, 2,6-dichloro-
U089 56-53-1 Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U101 105-67-9 Phenol, 2,4-dimethyl-
U052 1319-77-3 Phenol, methyl-
U132 70-30-4 Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U170 100-02-7 Phenol, 4-nitro-
See
F027 87-86-5 Phenol, pentachloro-
See
F027 58-90-2 Phenol, 2,3,4,6-tetrachloro-
See
F027 95-95-4 Phenol, 2,4,5-trichloro-
See
F027 88-06-2 Phenol, 2,4,6-trichloro-
U150 148-82-3 L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145 7446-27-7 Phosphoric acid, lead (2+) salt (2:3)
U087 3288-58-2 Phosphorodithioic acid, 0,0-diethyl S-methyl ester
U189 1314-80-3 Phosphorus sulfide (R)
U190 85-44-9 Phthalic anhydride
U191 109-06-8 2-Picoline
U179 100-75-4 Piperidine, 1-nitroso-
U192 23950-58-5 Pronamide
U194 107-10-8 1-Propanamine (1,T)
U111 621-64-7 1-Propanamine, N-nitroso-N-propyl-
U110 142-84-7 1-Propanamine, N-propyl- (1)
U066 96-12-8 Propane, 1,2-dibromo-3-chloro-
U083 78-87-5 Propane, 1,2-dichloro-
U149 109-77-3 Propanedinitrile
U171 79-46-9 Propane, 2-nitro- (1,T)
U027 108-60-1 Propane, 2,2'-oxybis[2-chloro-
See
F027 93-72-1 Propanoic acid, 2-(2,4,5-trichlorophenoxy)-

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U193 1120-71-4 1,3-Propane sulfone
U235 126-72-7 1-Propanol, 2,3-dibromo-, phosphate (3:1)
U140 78-83-1 1-Propanol, 2-methyl- (1,T)
U002 67-64-1 2-Propanone (1)
U007 79-06-012-Propanamide
U084 542-75-6 1-Propene, 1,3-dichloro-
U243 1888-71-7 1-Propene, 1,1,2,3,3,3-hexachloro-
U009 107-13-1 2-Propenenitrile
U152 126-98-7 2-Propenenitrile, 2-methyl- (1,T)
U008 79-10-7 2-Propenoic acid (1)
U113 140-88-5 2-Propenoic acid, ethyl ester (1)
U118 97-63-2 2-Propenoic acid, 2-methyl-, ethyl ester
U162 80-62-6 2-Propenoic acid, 2-methyl-, methyl ester (1,T)
See
F027 93-72-1 Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194 107-10-8 n-Propylamine (1,T)
U083 78-87-5 Propylene dichloride
U148 123-33-1 3,6-Pyridazinedione, 1,2-dihydro-
U196 110-86-1 Pyridine
U191 109-06-8 Pyridine, 2-methyl-
U237 66-75-1 2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U164 58-04-2 4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180 930-55-2 Pyrrolidine, 1-nitroso-
U200 50-55-5 Reserpine
U201 108-46-3 Resorcinol
U202 P 81-07-2 Saccharin and salts
U203 94-59-7 Saffrole
U204 7783-00-8 Selenious acid
U204 7783-00-8 Selenium dioxide
U205 7488-56-4 Selenium sulfide
U205 7488-56-4 Selenium sulfide SeS₂ (R,T)
U015 115-02-6 L-Serine, diazoacetate (ester)
See
F027 93-72-1 Silvex (2,4,5-TP)
U206 18883-66-4 Streptozotocin
U103 77-78-1 Sulfuric acid, dimethyl ester
U189 1314-80-3 Sulfur phosphide (R)
See
F027 93-76-5 2,4,5-T
U207 95-94-3 1,2,4,5-Tetrachlorobenzene
U208 630-20-6 1,1,1,2-Tetrachloroethane
U209 79-34-5 1,1,2,2-Tetrachloroethane
U210 127-18-4 Tetrachloroethylene
See
F027 58-90-2 2,3,4,6-Tetrachlorophenol
U213 109-99-9 Tetrahydrofuran (1)
U214 563-68-8 Thallium (1) acetate

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U215	6533-73-9 Thallium (I) carbonate	F001	Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
U216	7791-12-0 Thallium (I) chloride		Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.
U217	10102-45-1 Thallium (I) nitrate	F002	N.A.
U218	62-55-5 Thioacetamide		Cresols and cresylic acid, nitrobenzene.
U153	74-93-1 Thiomethanol (I, T)	F003	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane
U244	137-26-8 Thioperoxydicarbonic diamide $[(H_2N)C(S)]_2S_2$, tetramethyl-	F004	Cadmium, hexavalent chromium, nickel, cyanide (complexed).
U219	62-56-6 Thiourea	F005	Cyanide (salts).
U244	137-26-8 Thiram	F006	Cyanide (salts).
U220	108-88-3 Toluene	F007	Cyanide (salts).
U221	25376-45-8 Toluenediamine	F008	Cyanide (salts).
U223	26471-62-5 Toluene diisocyanate (R, T)	F009	Cyanide (salts).
U328	95-53-4 o-Toluidine	F010	Cyanide (salts).
U353	106-49-0 p-Toluidine	F011	Cyanide (salts).
U222	636-21-5 o-Toluidine hydrochloride	F012	Cyanide (complexed).
U011	61-82-5 1H-1,2,4-Triazol-3-amine	F019	Hexavalent chromium, cyanide (complexed).
U227	79-00-5 1,1,2-Trichloroethane	F020	Tetra- and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; tri- and tetra-chlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines and other salts.
U228	79-01-6 Trichloroethylene		Penta- and hexachlorodibenzo-p-dioxins; penta- and hexachlorodibenzofurans; pentachlorophenol and its derivatives.
U121	75-69-4 Trichloromono-fluoromethane	F022	Tetra-, penta- and hexachlorodibenzo-p-dioxins; tetra-, penta- and hexachlorodibenzofurans.
See			Tetra- and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; tri- and tetra-chlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines and other salts.
F027	95-95-4 2,4,5-Trichlorophenol	F023	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzenes, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene. Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans.
U236	72-57-1 Trypan blue		Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
U237	66-75-1 Uracil mustard		
U176	759-73-9 Urea, N-ethyl-N-nitroso-		
U177	684-93-5 Urea, N-methyl-N-nitroso-		
U043	75-01-4 Vinyl chloride		
U248 P	81-81-2 Warfarin, and salts, when present at concentrations of 0.3% or less	F024	
U239	1330-20-7 Xylene (I)		
U200	50-55-5 Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16beta,17alpha,18beta,20alpha)-Zinc phosphide Zn_3P_2 , when present at concentrations of 10% or less	F026	
U249	1314-84-7	F027	

(Source: Amended at 13 Ill. Reg. 18300, effective Nov. 13, 1989)

Appendix G Basis for Listing Hazardous Wastes

EPA Hazardous constituents for which listed hazardous waste No.

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K093	Phthalic anhydride maleic anhydride.
K094	Phthalic anhydride.
K095	1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane.
K096	1,2-dichloroethane, 1,1,1-trichloroethane, 1,1,2-trichloroethane.
K097	Chloroethane, heptachlor.
K098	Toxaphene.
K099	2,4-dichlorophenol, 2,4,6-trichlorophenol.
K100	Hexavalent chromium, lead, cadmium.
K101	Arsenic.
K102	Arsenic.
K103	Aniline, nitrobenzene, phenylenediamine.
K104	Aniline, benzene, diphenylamine, nitrobenzene, phnylenediamine.
K105	Benzene, monochlorobenzene, dichlorobenzenes, 2,4,6-trichlorophenol.
K106	Mercury.
K111	2,4-Dinitrotoluene.
K112	2,4-Toluenediamine, o-toluidine, p-toluidine, aniline.
K113	2,4-Toluenediamine, o-toluidine, p-toluidine, aniline.
K114	2,4-Toluenediamine, o-toluidine, p-toluidine.
K115	2,4-Toluenediamine.
K116	Carbon tetrachloride, tetrachloroethylene, chloroform, phosgene.
K117	Ethylene dibromide
K118	Ethylene dibromide
K123	Ethylene thiourea
K124	Ethylene thiourea
K125	Ethylene thiourea
K126	Ethylene thiourea
K136	Ethylene dibromide

N.A.--Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity or reactivity.

(Source: Amended at 13 Ill. Reg. 18309 effective Nov. 13, 1989)

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Section 721. Appendix H	Hazardous Constituents	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
Common Name				
Acetonitrile		Same	75-05-8	U003
Acetophenone		Ethanone, 1-phenyl-	98-86-2	U004
2-Acetylaminofluorene		Acetamide, N-9H-fluoren-2-yl-	53-96-3	U005
Acetyl chloride		Same	75-36-5	U006
1-Acetyl-2-thiourea		Acetamide, N-(aminothioxomethyl)-	591-08-2	P002
Acrolein		2-Propenal	107-02-8	P003
Acrylamide		2-Propenamide	79-06-1	U007
Acrylonitrile		2-Propenenitrile	107-13-1	U009
Aflatoxins		Same	1402-68-2	
Aldicarb		Propanal, 2-methyl-2-(methylthio)-, 0-[(methylamino)carbonyl]oxime	116-06-3	P070
Aldrin		1, 4, 5, 8-Dimethanonaphthalene, 1, 2, 3, 4, 10, 10-hexachloro-1, 4, 4a, 5, 8, 8a-hexahydro-, 1-alpha, 4-alpha, 4a-beta, 5-alpha, 8-alpha, 8a-beta)-	309-00-2	P004
Allyl alcohol		2-Propen-1-ol	107-18-6	P005
Aluminum phosphide		Same	20859-73-8	P006
4-Aminobiphenyl		[1,1'-biphenyl]-4-amine	92-67-1	
5-(Aminomethyl)-3-isoxazolol		3(2H)-isoxazolone, 5-(aminomethyl)-	2763-96-4	P007
4-Aminopyridine		4-Pyridinamine	504-24-5	P008
Anitrole		1H-1,2,4-Triazol-3-amine	61-82-5	U011
Ammonium vanadate		Vanadic acid, ammonium salt	7803-55-6	U119
Aniline		Benzenamine	62-53-3	U012
Antimony		Same	7440-36-0	
Antimony compounds, N.O.S. (not otherwise specified)		Sulfurous acid, 2-chloroethyl-, 2-[4-(1,1-dimethyl ethyl)phenoxyl]-1-methyl ethyl ester	140-57-8	
Aramite		Arsenic	7440-38-2	
Arsenic		Arsenic	7440-38-2	
Arsenic compounds, N.O.S.		Arsenic acid	7778-39-4	P010
Arsenic acid		Arsenic acid H ₂ AsO ₄	1303-28-2	P011
Arsenic pentoxide		Arsenic oxide As ₂ O ₅	1303-28-2	P012
Arsenic trioxide		Arsenic oxide As ₂ O ₃	1327-53-3	P012
Auramine		Benzenamine, 4, 4'-	492-80-8	U014
Azaserine		Carbonimidoylbis[N, N-dimethyl-L-Serine, diazoacetate (ester)]	115-02-6	U015
Barium		Same	7440-39-3	
Barium compounds, N.O.S.		Same	542-62-1	P013
Barium cyanide		Same	225-51-4	U016
Benz[C]acridine		Same	225-51-4	U016

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Benz[a]anthracene	Same	56-55-3	U018
Benzal chloride	Benzene, (dichloromethyl)-	98-87-3	U017
Benzene	Same	71-43-2	U018
Benzeneazonic acid	Arsenic acid, phenyl-	98-05-5	
Benzidine	[1,1'-biphenyl]-4,4'-diamine	92-87-5	U021
Benzol[j]fluoranthene	Benz[<i>a</i>]acephenanthrylene	205-99-2	
Benzol[k]fluoranthene	Same	205-82-3	
Benzol[a]pyrene	Same	50-32-8	U022
p-Benzquinone	2,5-Cyclohexadiene-1,4-dione	106-51-4	U197
Benzotrifluoride	Benzene, (trichloromethyl)-	98-07-7	U023
Benzyl chloride	Benzene, (chloromethyl)-	100-44-7	P028
Beryllium	Same	7440-41-7	P015
Beryllium compounds, N.O.S.			
Bromacetone	2-Propanone, 1-bromo-	598-31-2	P017
Bromoform	Methane, tr-bromo-	75-25-2	U225
4-Bromophenyl phenyl ether	Benzene, 1-bromo-4-phenoxy-	101-55-3	U030
Brucine	Strychnidin-10-one, 2,3-dimethoxy-	357-57-3	P018
Butyl benzyl phthalate	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester	85-68-7	
Cacodylic acid	Arsenic acid, dimethyl-	75-60-5	U136
Cadmium	Same	7440-43-9	
Cadmium compounds, N.O.S.			
Calcium chromate	Chromic acid H ₂ CrO ₄ , calcium salt	13765-19-0	U032
Calcium cyanide	Calcium cyanide Ca(CN) ₂	592-01-8	P021
Carbon disulfide	Same	75-15-0	P022
Carbon oxyfluoride	Carbonic difluoride	353-50-4	U033
Carbon tetrachloride	Methane, tetrachloro-	56-23-5	U211
Chloral	Acetaldehyde, trichloro-	75-87-6	U034
Chlorambucil	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-	305-03-3	U035
Chlordane	4, 7-Methano-1H-indene, 1, 2, 4, 5, 6, 7, 8, 8-octachloro-2, 3, 3a, 4, 7, 7a-hexahydro-	57-74-9	U036
Chlordane, alpha and gamma isomers			
Chlorinated benzenes, N.O.S.			
Chlorinated ethane, N.O.S.			
Chlorinated fluorocarbons, N.O.S.			
Chlorinated naphthalene, N.O.S.			
Chlorinated phenol, N.O.S.			
Chlorophazine	Naphthalenamine, N, N'-bis(2-chloroethyl)-	494-03-1	U026
Chloroacetaldehyde	Acetaldehyde, chloro-	107-20-0	P023
Chloroalkyl ethers, N.O.S.			
p-Chloroaniline	Benzene, 4-chloro-	106-47-8	P024
Chlorobenzene	Benzene, chloro-	108-90-7	U037
Chlorobenzilate	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester	510-15-6	U038

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p-Chloro-m-cresol	Phenol, 4-chloro-3-methyl-	59-50-7	U039
2-Chlorophenyl vinyl ether	Ethene, (2-chloroethoxy)-	110-75-8	U042
Chloroform	Methane, trichloro-	67-66-3	U044
Chloromethyl methyl ether	Methane, chloromethoxy-	107-30-2	U046
beta-Chloronaphthalene	Naphthalene, 2-chloro-	91-58-7	U047
o-Chlorophenol	Phenol, 2-chloro-	95-57-8	U048
1-(o-Chlorophenyl)thiourea	Thiourea, (2-chlorophenyl)-	5344-82-1	P026
Chloroprene	1,3-Butadiene, 2-chloro-	126-99-8	
3-Chloropropionitrile	Propanenitrile, 3-chloro-	542-76-7	P027
Chromium	Same	7440-47-3	
Chromium compounds, N.O.S.			
Chrysene	Same	218-01-9	U050
Citrus red No. 2	2-Naphthalenol, 1-[(2, 5-dimethoxyphenyl)azo]-	6358-53-8	
Coal tar creosote	Same	8007-45-2	
Copper cyanide	Copper cyanide CuCN	544-92-3	P029
Creosote	Same		
Cresols (Cresylic acid)	Phenol, methyl-	1319-77-3	U052
Crotonaldehyde	2-Butenal	4170-30-3	U053
Cyanides (soluble salts and complexes), N.O.S.			
Cyanogen	Ethanedinitrile	460-19-5	P031
Cyanogen bromide	Cyanogen bromide (CN) ₂	506-66-3	U246
Cyanogen chloride	Cyanogen chloride (CNCl)	506-77-4	P033
Cystein	Beta-D-glucopyranoside, (methyl-DNN-azoxy)methyl-	14901-08-7	
2-Cyclohexyl-4,6-dinitrophenol	Phenol, 2-cyclohexyl-4,6-dinitro-	131-89-5	P034
Cyclophosphamide	2H-1, 3, 2-oxazaphosphorin-2-amine, N, N-bis(2-chloroethyl)tetrahydro-, 2-oxide	50-18-0	U058
2,4-D	Acetic acid, (2,4-dichlorophenoxy)-	94-75-	U240
2,4-D, salts and esters	Acetic acid, (2,4-dichlorophenoxy)-, salts and esters		U240
Daunomycin	5, 12-Naphthacenedione, 8-acetyl-10-[[3-amino-2, 3, 6-trideoxy-alpha-L-lyxo-hexopyranosyl]oxy]-7, 8, 9, 10-tetrahydro-6, 8, 11-trihydroxy-1-methoxy-, 8S-cis)-	20830-81-	U059
DDD	Benzene, 1,1'-(2,2-dichloroethenylidene)bis[4-chloro-	72-54-8	U060
DDE	Benzene, 1, 1'-(2,2-dichloroethenylidene)bis[4-chloro-	72-55-9	
DDT	Benzene, 1, 1'-(2, 2, 2-trichloroethenylidene)bis[4-chloro-	50-29-3	U061
Diallate	Carbamothioic acid, bis(1-methyl-ethyl)-, S-(2, 3-dichloro-2-propenyl) ester	2303-16-4	U062
Dibenz[a,h]acridine	Same	226-36-8	

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Dibenz[a,h]acridine	Same	224-42-0	
Dibenz[a,h]anthracene	Same	53-70-3	U063
7H-dibenz[c,g]carbazole	Same	194-59-2	
Dibenz[a,e]pyrene	Naphthol[1,2,3,4-def]chrysene	192-65-4	
Dibenz[a,h]pyrene	Dibenzolb,der]chrysene	189-64-0	U064
Dibenz[a,i]pyrene	Benzofirst]pentaphene	189-55-9	
1,2-Dibromo-3-chloropropane	Propene, 1,2-dibromo-3-chloro-	96-12-8	U066
Dibutyl phthalate	1,2-Benzenedicarboxylic acid, dibutyl ester	84-74-2	U069
o-Dichlorobenzene	Benzene, 1,2-dichloro-	95-50-1	U070
m-Dichlorobenzene	Benzene, 1,3-dichloro-	541-73-1	U071
p-Dichlorobenzene	Benzene, 1,4-dichloro-	106-46-7	U072
Dichlorobenzene, N,O,S-	Benzene, dichloro-	25321-22-6	
3,3'-Dichlorobenzidine	[1, 1'-Biphenyl]-4, 4'-diamine, 3, 3'-dichloro-	91-94-1	U073
1,4-Dichloro-2-butene	2-Butene, 1,4-dichloro-	764-41-0	U074
Dichlorodifluoromethane	Methane, dichlorodifluoro-	75-71-8	U075
Dichloroethylene, N,O,S-	Dichloroethylene	25323-30-2	
1,1-Dichloroethylene	Ethene, 1,1-dichloro-	75-35-4	U078
1,2-Dichloroethylene	Ethene, 1,2-dichloro-, (E)-	156-60-5	U079
Dichloroethyl ether	Ethane, 1,1'-oxybis[2-chloro-	111-44-4	U025
Dichloroisopropyl ether	Propane, 2,2'-oxybis[2-chloro-	108-60-1	U027
Dichloromethoxyethane	Ethane, 1,1'-[methoxy]bis(oxy)bis[2-chloro-	111-91-1	U024
Dichloromethyl ether	Methane, oxybis[chloro-	542-88-1	U016
2,4-Dichlorophenol	Phenol, 2,4-dichloro-	120-83-2	U081
2,6-Dichlorophenol	Phenol, 2,6-dichloro-	87-65-0	U082
Dichlorophenylarsine	Arsinous dichloride, phenyl-	696-28-6	P036
Dichloropropane, N,O,S-	Propane, dichloro-	26638-19-7	
Dichloropropane, N,O,S-	Propanol, dichloro-	26545-73-3	
1,3-Dichloropropene	1-Propene, dichloro-	26952-23-8	
Dieldrin	1-Propene, 1,3-dichloro-	542-75-6	U084
	2,7:3, 6-Dimethanonaphth[2, 3-b]oxirane, 3, 4, 5, 6, 9, 9-hexachloro-1a, 2, 2a, 3, 6, 6a, 7, 7a-octahydro-, (1a alpha, 2 beta, 2a alpha, 3 beta, 6 beta, 6a alpha, 7 beta, 7a alpha)-	60-57-1	P037
	2,2'-Bisoxirane		
1,2:3,4-Diepoxybutane	Arsine, diethyl-	1464-53-5	U085
Diepoxyarsine	1,4-Dioxane	692-42-2	P038
1,4-Diepoxytenoxide	1,2-Benzenedicarboxylic acid, bis(2-ethoxyethyl) ester	123-91-1	U108
Diepoxythexyl phthalate	Hydrazine, 1,2-diepoxy-	117-81-7	U028
N,N'-Diepoxyhydrazine	Phosphorodithioic acid, 0,0-diepoxy-	1615-80-1	U086
0,0-Diepoxy 5-methyl dithiophosphate	5-methyl ester	3288-58-2	U087
Diethyl p-nitrophenyl phosphate	Phosphoric acid, diethyl 4-nitrophenyl ester	311-45-5	P041

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Diethyl phthalate	Diethyl 1,2-Benzenedicarboxylic acid, diethyl ester	84-66-2	U088
0,0-Diepoxy 0-pyrazinyl phosphorothioate	Phosphorothioic acid, 0,0-diepoxy 0-pyrazinyl ester	297-97-2	P040
Diethylstilbestrol	Phenol, 4,4'-(1,2-diepoxy)-1,2-ethenediyl]bis-, (E)-	56-53-1	U089
Dihydrosofrole	1,3-Benzodioxole, 5-propyl-	94-58-6	U090
Disopropylfluorophosphate (DFP)	Phosphorofluoridic acid, bis(1-methylethyl) ester	55-91-4	P043
Dimethane	Phosphorodithioic acid, 0,0-dimethyl 5-[2-(methyloxy)-2-oxoethyl] ester	60-51-5	P044
3,3'-Dimethoxybenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-	119-90-4	U091
p-Dimethylaminoazobenzene	Benzaniline, N,N-dimethyl-4-(phenylazo)-	60-11-7	U093
7,12-Dimethylbenz[a]anthracene	Benz[a]anthracene, 7,12-dimethyl- [1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-	57-97-6	U094
3,3'-Dimethylbenzidine	Carbamate chloride, dimethyl- hydrazine, 1,1-dimethyl-	119-93-7	U095
Dimethylcarbamoyl chloride	Hydrazine, 1,2-dimethyl-	79-44-7	U097
1,1-Dimethylhydrazine	Hydrazine, 1,2-dimethyl-	57-14-7	U098
1,2-Dimethylhydrazine	Benzeneethanamine, alpha, alpha-dimethyl-	540-73-8	U099
alpha, alpha-Dimethylphenethylamine	Phenol, 2,4-dimethyl-	122-09-8	P046
2,4-Dimethylphenol	Phenol, 2,4-dimethyl-	105-67-9	U101
Dimethylphthalate	1,2-Benzenedicarboxylic acid, dimethyl ester	131-11-3	U102
Dimethyl sulfate	Sulfuric acid, dimethyl ester	77-78-1	U103
Dinitrobenzene, N,O,S-	Benzene, dinitro-	25154-54-5	P047
4,6-Dinitro-o-cresol	Phenol, 2-methyl-4,6-dinitro-	534-52-1	P047
4,6-Dinitro-p-cresol salts	Phenol, 2,4-dinitro-	51-28-5	P048
2,4-Dinitrophenol	Benzene, 1-methyl-2,4-dinitro-	121-14-2	U105
2,4-Dinitrophenol	Benzene, 2-methyl-1,3-dinitro-	606-20-2	U106
2,6-Dinitrophenol	Phenol, 2-(1-methylpropyl)-4,6-dinitro-	88-85-7	P020
Dinoseb	1,2-Benzenedicarboxylic acid, dioctyl ester	117-84-0	U107
Dl-n-octyl phthalate	Benzaniline, N-phenyl-	122-39-4	U109
Diphenylamine	Hydrazine, 1,2-diphenyl-	621-64-7	U111
1,2-Diphenylhydrazine	1-Propenamine, N-nitroso-N-propyl-	298-04-4	P039
Dipropyl nitrosamine	Phosphorodithioic acid, 0,0-diepoxy 5-[2-(ethyloxy)ethyl] ester	541-53-7	P049
Dithioburet	Thioimidocarbonic diamide [(H ₂ N)(C(S)) ₂ NH]	115-29-7	P050
Endosulfan	6, 9-Methano-2, 4, 3-benzodioxathiepen, 6, 7, 8, 9, 10, 10-hexachloro-1, 5, 5a, 6, 9, 9a-hexahydro-, 3-oxide,		

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Endothal	7-0xabicyclo[2.2.1]heptane-2, 3-dicarboxylic acid	145-73-3	P088
Endrin	2, 7,3, 6,0-dimethanonaphth[2, 3-b]oxirene, 3, 4, 5, 6, 9, 9-hexachloro-1a, 2, 2a, 3, 6, 6a, 7, 7a-octahydro-, (1a alpha, 2 beta, 2a beta, 3 alpha, 6 alpha, 6a beta, 7 beta, 7a alpha)-,	72-20-8	P051
Endrin metabolites			
Epichlorohydrin	Oxirane, (chloromethyl)-	106-89-8	P051
Epimorphine	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-	51-43-4	P042
Ethyl carbamate (urethane)	Carbamic acid, ethyl ester	51-79-6	U238
Ethyl cyanide	Propanenitrile	107-12-0	P101
Ethylenebis(dithiocarbamic acid)	Carbamodithioic acid, 1,2-ethanedithiois-	111-54-6	U114
Ethylenebis(dithiocarbamic acid, salts and esters)			U114
Ethylene dibromide	Ethane, 1,2-dibromo-	106-93-4	U067
Ethylene dichloride	Ethane, 1,2-dichloro-	107-06-2	U077
Ethylene glycol monoethyl ether	Ethanol, 2-ethoxy-	110-80-5	U359
Ethyleneimine	Aziridine	151-56-4	P054
Ethylene oxide	Oxirane	75-21-8	U115
Ethyleneurea	2-Imidazolidinethione	96-45-7	U116
Ethylidene dichloride	Ethane, 1,1-dichloro-	75-34-3	U076
Ethyl methacrylate	2-Propenoic acid, 2-methyl-, ethyl ester	97-63-2	U118
Ethyl methanesulfonate	Methanesulfonic acid, ethyl ester	62-50-0	U119
Famphur	Phosphorothioic acid, 0-[4-[(dimethylamino)sulfonyl]phenyl] 0,0-dimethyl ester	52-85-7	P097
Fluoranthene	Same	206-44-0	U120
Fluorine	Same	7782-41-4	P056
Fluoroacetamide	Acetamide, 2-fluoro-	640-19-7	P057
Fluoroacetic acid, sodium salt	Acetic acid, fluoro-, sodium salt	62-74-8	P058
Formaldehyde	Same	50-00-0	U122
Formic acid	Same	64-18-16	U123
Glycidylaldehyde	Oxiranecarboxaldehyde	765-34-4	U126
Halomethanes, N.O.S.			
Heptachlor	4, 7-Methano-1H-indene, 1, 4, 5, 6, 7, 8, 8-heptachloro-3a, 4, 7, 7a-tetrahydro-	76-44-8	P059
Heptachlor epoxide	2, 5-Methano-2H-indeno[1, 2b]oxirene, 2, 3, 4, 5, 6, 7, 7-heptachloro-1a, 1b, 5, 5a, 6, 6a-hexahydro-, (1a alpha, 1b beta, 2 alpha, 5 alpha, 5a beta, 6 beta, 6a alpha)-	1024-57-3	
Heptachlor epoxide (alpha, beta and gamma isomers)			

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Hexachlorobenzene	Hexachlorobenzene	118-74-1	U127
Hexachlorobutadiene	Hexachlorobutadiene	87-68-3	U128
Hexachlorocyclopentadiene	Hexachlorocyclopentadiene	77-47-4	U130
Hexachlorodibenzo-p-dioxins	Hexachlorodibenzo-p-dioxins		
Hexachlorodibenzofurans	Hexachlorodibenzofurans		
Hexachloroethane	Hexachloroethane		
Hexachlorophene	Hexachlorophene		
Hexachloropropene	Hexachloropropene		
Hexaethyltetraphosphate	Hexaethyltetraphosphate		
Hydrazine	Hydrazine		
Hydrogen cyanide	Hydrogen cyanide		
Hydrogen fluoride	Hydrogen fluoride		
Hydrogen sulfide	Hydrogen sulfide		
Indeno[1,2,3-cd] pyrene	Indeno[1,2,3-cd] pyrene		
-iron dextran	-iron dextran		
Isobutyl alcohol	Isobutyl alcohol		
Isodrin	Isodrin		
Isosafrole	Isosafrole		
Kepone	Kepone		
Lasiocarpine	Lasiocarpine		
Lead	Lead		
Lead and compounds, N.O.S.	Lead and compounds, N.O.S.		
Lead acetate	Lead acetate		
Lead phosphate	Lead phosphate		
Lead subacetate	Lead subacetate		
Lindane	Lindane		
Maleic anhydride	Maleic anhydride	108-31-6	U147
Maleic hydrazide	Maleic hydrazide	123-33-1	U148
Malonitrile	Malonitrile	109-77-3	U149
Melphalan	Melphalan	148-82-3	U150
Mercury	Mercury		
Mercury compounds, N.O.S.	Mercury compounds, N.O.S.	7439-97-6	U151
Benzene, hexachloro-	Benzene, hexachloro-	118-74-1	U127
1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87-68-3	U128
1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	77-47-4	U130
Ethane, hexachloro-	Ethane, hexachloro-	67-72-1	U131
Phenol, 2,2'-methylenebis[3,4,6-trichloro-	Phenol, 2,2'-methylenebis[3,4,6-trichloro-	70-30-4	U132
1-Propene, 1,1,2,3,3,3-hexachloro-	1-Propene, 1,1,2,3,3,3-hexachloro-	1888-71-7	U243
Tetraphosphoric acid, hexaethyl ester	Tetraphosphoric acid, hexaethyl ester	757-58-4	P062
Same	Same	302-01-2	U133
Hydrocyanic acid	Hydrocyanic acid	74-90-6	P063
Hydrofluoric acid	Hydrofluoric acid	7664-39-3	U134
Hydrogen sulfide H ₂ S	Hydrogen sulfide H ₂ S	7783-06-4	U135
Same	Same	193-39-5	U137
Same	Same	9984-66-4	U139
1-Propanol, 2-methyl-	1-Propanol, 2-methyl-	70-83-1	U140
1, 4, 5, 8-0-dimethanonaphthalene, 1, 2, 3, 4, 10, 10-hexachloro-1, 4, 4a, 5, 8, 8a-hexahydro-, (1 alpha, 4 alpha, 4a beta, 5 beta, 8 beta, 8a beta)-,	1, 4, 5, 8-0-dimethanonaphthalene, 1, 2, 3, 4, 10, 10-hexachloro-1, 4, 4a, 5, 8, 8a-hexahydro-, (1 alpha, 4 alpha, 4a beta, 5 beta, 8 beta, 8a beta)-,	465-73-6	P060
1,3-Benzodioxole, 5-(1-propenyl)-	1,3-Benzodioxole, 5-(1-propenyl)-	120-58-1	U141
1, 3, 4-Metheno-2H-cyclobuta-	1, 3, 4-Metheno-2H-cyclobuta-	143-50-0	U142
[Ced]pentalen-2-one, 1, 1a, 3, 3a, 4, 5, 5a, 5b, 6-decachlorooctahydro-, 2-butenic acid, 2-methyl-, 7-[[2, 3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2, 3, 5, 7a-tetrahydro-1H-pyrrolo[2,1-b] ester, [1S-[1-alpha(2)], 7(2S*), 3R*), 7a alpha]]-	[Ced]pentalen-2-one, 1, 1a, 3, 3a, 4, 5, 5a, 5b, 6-decachlorooctahydro-, 2-butenic acid, 2-methyl-, 7-[[2, 3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2, 3, 5, 7a-tetrahydro-1H-pyrrolo[2,1-b] ester, [1S-[1-alpha(2)], 7(2S*), 3R*), 7a alpha]]-	303-34-1	U143
Same	Same	7439-92-1	
Acetic acid, lead (2+) salt	Acetic acid, lead (2+) salt	301-04-2	U144
Phosphoric acid, lead (2+) salt (2:3)	Phosphoric acid, lead (2+) salt (2:3)	7446-27-7	U145
Lead, bis(acetato-0)tetrahydroxytri-Cyclohexane, 1,2,3,4,5,6-hexachloro-, 1 alpha, 2 alpha, 3 beta, 4 alpha, 5 alpha, 6 beta)-	Lead, bis(acetato-0)tetrahydroxytri-Cyclohexane, 1,2,3,4,5,6-hexachloro-, 1 alpha, 2 alpha, 3 beta, 4 alpha, 5 alpha, 6 beta)-	1335-32-6	U146
2,5-Furandione	2,5-Furandione	58-89-9	U129
3,6-Pyridazinedione, 1,2-dihydro-	3,6-Pyridazinedione, 1,2-dihydro-	108-31-6	U147
Propanedinitrile	Propanedinitrile	123-33-1	U148
L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-	109-77-3	U149
Same	Same	148-82-3	U150
Same	Same	7439-97-6	U151

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Phenol	Same	108-95-2	U188
Phenyl isocyanide	Benzenediamine	25265-76-3	
Phenylmercury acetate	Mercury, (acetato-o)phenyl-	62-38-4	P092
Phenylthiourea	Thiourea, phenyl-	103-85-5	P093
Phosgene	Carbonic dichloride	75-44-5	P095
Phosphine	Same	7803-51-2	P096
Phorate	Phosphorodithioic acid, 0,0-diethyl S-[(ethylthio)methyl] ester	298-02-2	P094
Phthalic acid esters, N.O.S.	1,3-Isobenzofurandione	85-44-9	U190
Phthalic anhydride	Pyridine, 2-methyl-	109-06-8	U191
2-picolone	Same	151-50-8	P098
Polychlorinated biphenyls, N.O.S.	Argentate(1-), bis(cyano-C)-, potassium	506-61-6	P099
Potassium cyanide	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propenyl)-	23950-58-5	U192
Potassium silver cyanide	1,2-Oxathiolane, 2,2-dioxide	1120-71-4	U193
Pronamide	1-Propanamine	107-10-8	U194
1,3-Propylene sulfone	2-Propen-1-ol	107-19-7	P102
n-Propylamine	Propane, 1,2-dichloro-	78-87-5	U083
Propargyl alcohol	Aziridine, 2-methyl-	75-55-8	P067
Propylene dichloride	4(H)-Pyrimidinone, 2,3-dihydro-6-propyl-2-thioxo-	51-52-5	
1,2-Propyleneimine	Same	110-86-1	U196
Propylthiouracil	Yohimban-16-carboxylic acid, 11, 17-dimethoxy-18-[(3, 4, 5-trimethoxybenzoyloxy)-, methyl ester, (3 beta, 16 beta, 17 alpha, 18 beta, 20 alpha)-	50-55-5	U200
Pyridine	1,3-Benzenediol	108-46-3	U201
Reserpine	1,2-Benzisothiazol-3-(2H)-one, 1,1-dioxide	81-07-2	U202
Saccharin	1,3-Benzodioxole, 5-(2-propenyl)-	94-59-7	U203
Saccharin salts	Same	7782-49-2	
Safrole	Selenious acid	7783-00-8	U204
Selenium	Selenium dioxide	7488-56-4	U205
Selenium compounds, N.O.S.	Selenium sulfide SeS ₂	630-10-4	P103
Selenium dioxide	Same	7440-22-4	
Selenourea	Same	7440-22-4	
Silver	Silver cyanide AgCN	506-64-9	P104
Silver compounds, N.O.S.	Propenoic acid, 2-(2,4,5-trichlorophenyl)-	93-72-1	See F027
Silver cyanide	Sodium cyanide NaCN	143-33-9	P106
Silvex (2,4,5-TP)	D-glucose, 2-deoxy-2-[methyl nitrosoamino]carbonyl amino]-	18883-66-4	U206
Sodium cyanide			
Streptozotocin			

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-Selenium sulfide	Strontium sulfide SrS	1314-96-1	P197-
Strychnine	Strychnidin-10-one	57-24-9	P108
Sulfuric salts	0-Dibenzolb,e] [1,4]dioxin, 2,3,7,8-tetrachloro-	1746-01-6	P108
TCDD	Benzene, 1,2,4,5-tetrachloro-	95-94-3	U207
1,2,4,5-Tetrachlorobenzene	Ethane, tetrachloro-, N.O.S.	25322-20-7	
Tetrachlorodibenzofurans	Ethane, 1,1,1,2-tetrachloro-	630-20-6	U208
Tetrachloroethane, N.O.S.	Ethane, 1,1,2,2-tetrachloro-	79-34-5	U209
1,1,2,2-Tetrachloroethane	Ethene, tetrachloro-	127-18-4	U210
Tetrachloroethylene	Phenol, 2,3,4,6-tetrachloro-	58-90-2	See F027
2,3,4,6-Tetrachlorophenol	Thiodiphosphoric acid, tetraethyl ester	3689-24-5	P109
Tetraethylidethiopyrophosphate	Plumbane, tetraethyl-	78-00-2	P110
Tetraethyl lead	Diphosphoric acid, tetraethyl ester	107-49-3	P111
Tetraethylpyrophosphate	Methane, tetranitro-	509-14-8	P112
Tetraethmethane	Same	7440-28-0	
Thallium	Thallium oxide Tl ₂ O ₃	1314-32-5	P113
Thallium compounds	Acetic acid, thallium (1+) salt	563-68-8	U214
Thallitic oxide	Carbonic acid, dithallium (1+) salt	6533-73-9	U215
Thallium (I) acetate	Thallium chloride TlCl	7791-12-0	U216
Thallium (I) carbonate	Nitric acid, thallium (1+) salt	10102-45-1	U217
Thallium (I) chloride	Selenious acid, dithallium (1+) salt	12039-52-0	P114
Thallium (I) nitrate	Sulfuric acid, dithallium (1+) salt	7446-18-6	P115
Thallium selenite	Ethamethanamide	62-55-5	U218
Thallium (I) sulfate	2-Butanone, 3,3-dimethyl-1-(methylthio)-, 0-	39196-18-	P045
Thioacetamide	Thioacetamide	4	
Thioanox	Thioacetamide		
Thioethanol	Thioacetamide		
Thiophenol	Thioacetamide		
Thiosemicarbazide	Thioacetamide		
Thiourea	Thioacetamide		
Thiram	Thioacetamide		
Toluene	Toluene		
Toluenediamine	Toluenediamine		
Toluene-2,4-diamine	Toluene-2,4-diamine		
Toluene-2,6-diamine	Toluene-2,6-diamine		
Toluene-3,4-diamine	Toluene-3,4-diamine		
Toluene dithiocyanate	Toluene dithiocyanate		
o-Toluidine	o-Toluidine		
o-Toluidine hydrochloride	o-Toluidine hydrochloride		
p-Toluidine	p-Toluidine		
	Benzeneamine, 4-methyl-	106-49-0	U353

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Name	8001-35-2	P123
Toxaphene		
1,2,4-Trichlorobenzene	120-82-1	
1,1,2-Trichloroethane	79-00-5	U227
Trichloroethylene	79-01-6	U228
Trichloromethane	75-70-7	P118
Trichloromethane	75-69-4	U121
2,4,5-Trichlorophenol	95-95-4	See F027
2,4,6-Trichlorophenol	88-06-2	See F027
2,4,5-T	93-76-5	See F027
Trichloropropene, N.O.S.	25735-29-9	
1,2,3-Trichloropropene	96-18-4	
0,0,0-Triethyl phosphorothioate	126-68-1	
1,3,5-Trinitrobenzene	99-35-4	U234
Tris(1-aziridinyl)phosphine sulfide	52-24-4	
Tris(2,3-dibromopropyl) phosphate	126-72-7	U235
Trypan blue	72-57-1	U236
Urecll mustard	66-75-1	U237
Vanadium pentoxide	1314-62-1	P120
Vinyl chloride	75-01-4	U043
Warfarin	81-81-2	U248
Warfarin	81-81-2	P001
Warfarin salts, when present at concentrations less than 0.3%.		U248
Warfarin salts, when present at concentrations greater than 0.3%.		P001
Zinc cyanide	557-21-1	P121
Zinc phosphide	1314-84-7	P122
Zinc phosphide	1314-84-7	U249

(Source: Amended at 13 Ill. Reg. 18300 effective Nov. 13, 1989)

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- 1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 725
- 3) Section Numbers: 725.113, 725.173, 725.212, 725.214, 725.218, 725.241
725.247, 725.290, 725.293, 725.296, 725.301
Amendments
- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.
- 5) Effective Date of Amendment: November 13, 1989
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? No.
- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.
- 9) Notice of Proposal Published in Illinois Register: June 30, 1989; 13 Ill. Reg. 9737
- 10) Has JCAR issued a Statement of Objections to these rules? No.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 11) Differences between proposal and final version:
Minor editorial differences.
In Section 725.241, the definitions of "pollutant" and "pollution incident" have been rearranged. In Section 725.247, the references to the Corporate Fiduciary Act have been updated.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?
Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

13) Will this amendment replace an emergency amendment currently in effect? No.

14) Are there any other amendments pending on this Part? No.

15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

This Part includes numerous minor amendments which change cross references to reflect new or modified requirements. These include references to First Third landfill bans (Part 728), permit modification (Part 703) and tank systems (Subpart J).

Sections 725.241 et seq. concern liability insurance requirements. The Board has adopted definitions based on standard insurance industry definitions, and has limited the methods of complying with the insurance requirement to those which are governed by Illinois law, from providers licensed or regulated in Illinois.

Sections 725.290 et seq. are minor amendments to the tank system rules.

16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725
INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Purpose, Scope and Applicability
Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

Applicability
USEPA Identification Number
Required Notices
General Waste Analysis
Security
General Inspection Requirements
Personnel Training
General Requirements for Ignitable, Reactive or Incompatible Wastes
Location Standards

SUBPART C: PREPAREDNESS AND PREVENTION

Applicability
Maintenance and Operation of Facility
Required Equipment
Testing and Maintenance of Equipment
Access to Communications or Alarm System
Required Aisle Space
Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Applicability
Purpose and Implementation of Contingency Plan
Content of Contingency Plan
Copies of Contingency Plan
Amendment of Contingency Plan
Emergency Coordinator
Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section
725.170 Applicability
725.171 Use of Manifest System
725.172 Manifest Discrepancies
725.173 Operating Record
725.174 Availability, Retention and Disposition of Records
725.175 Annual Report
725.176 Unmanifested Waste Report
725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

Section
725.190 Applicability
725.191 Groundwater Monitoring System
725.192 Sampling and Analysis
725.193 Preparation, Evaluation and Response
725.194 Recordkeeping and Reporting

SUBPART G: CLOSURE AND POST-CLOSURE

Section
725.210 Applicability
725.211 Closure Performance Standard
725.212 Closure Plan; Amendment of Plan
725.213 Closure; Time Allowed for Closure
725.214 Disposal or Decontamination of Equipment, Structures and Soils
725.215 Certification of Closure
725.216 Survey Plat
725.217 Post-closure Care and Use of Property
725.218 Post-closure Plan; Amendment of Plan
725.219 Post-Closure Notices
725.220 Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section
725.240 Applicability
725.241 Definitions of Terms as Used in this Subpart
725.242 Cost Estimate for Closure
725.243 Financial Assurance for Closure
725.244 Cost Estimate for Post-closure Care
725.245 Financial Assurance for Post-closure Monitoring and Maintenance
725.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-closure Care
725.247 Liability Requirements
725.248 Incapacity of Owners or Operators, Guarantors or Financial Institutions
725.251 Promulgation of Forms (Repealed)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section
725.270 Applicability
725.271 Condition of Containers
725.272 Compatibility of Waste with Container-g-
725.273 Management of Containers
725.274 Inspections
725.276 Special Requirements for Ignitable or Reactive Waste
725.277 Special Requirements for Incompatible Wastes

SUBPART J: TANK SYSTEMS

Section
725.290 Applicability
725.291 Assessment of Existing Tank System's Integrity
725.292 Design and Installation of New Tank Systems or Components
725.293 Containment and Detection of Releases
725.294 General Operating Requirements
725.295 Inspections
725.296 Response to leaks or spills and disposition of Tank Systems
725.297 Closure and Post-Closure Care
725.298 Special Requirements for Ignitable or Reactive Waste
725.299 Special Requirements for Incompatible Wastes
725.300 Waste Analysis and Trial Tests
725.301 Generators of 100 to 1000 kg/mo.

SUBPART K: SURFACE IMPOUNDMENTS

Section
725.320 Applicability
725.321 Design Requirements
725.322 General Operating Requirements
725.323 Containment System
725.325 Waste Analysis and Trial Tests
725.326 Inspections
725.328 Closure and Post-Closure Care
725.329 Special Requirements for Ignitable or Reactive Waste
725.330 Special Requirements for Incompatible Wastes

SUBPART L: WASTE PILES

Section
725.350 Applicability
725.351 Protection from Wind
725.352 Waste Analysis
725.353 Containment
725.354 Design Requirements
725.356 Special Requirements for Ignitable or Reactive Waste
725.357 Special Requirements for Incompatible Wastes
725.358 Closure and Post-Closure Care

SUBPART M: LAND TREATMENT

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Section
725.370 Applicability
725.372 General Operating Requirements
725.373 Waste Analysis
725.376 Food Chain Crops
725.378 Unsaturated Zone (Zone of Aeration) Monitoring
725.379 Recordkeeping
725.380 Closure and Post-Closure
725.381 Special Requirements for Ignitable or Reactive Waste
725.382 Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

Section
725.400 Applicability
725.401 Design Requirements
725.402 General Operating Requirements
725.409 Surveying and Recordkeeping
725.410 Closure and Post-Closure
725.412 Special Requirements for Ignitable or Reactive Waste
725.413 Special Requirements for Incompatible Wastes
725.414 Special Requirements for Liquid Wastes
725.415 Special Requirements for Containers
725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

SUBPART O: INCINERATORS

Section
725.440 Applicability
725.441 Waste Analysis
725.445 General Operating Requirements
725.447 Monitoring and Inspection
725.451 Closure
725.452 Interim Status Incinerators Burning Particular Hazardous Wastes

SUBPART P: THERMAL TREATMENT

Section
725.470 Other Thermal Treatment
725.473 General Operating Requirements
725.475 Waste Analysis
725.477 Monitoring and Inspections
725.481 Closure
725.482 Open Burning: Waste Explosives
725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste

Section
725.500 SUBPART Q: CHEMICAL, PHYSICAL AND BIOLOGICAL TREATMENT
Applicability

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725.501 General Operating Requirements
725.502 Waste Analysis and Trial Tests
725.503 Inspections
725.504 Closure
725.505 Special Requirements for Ignitable or Reactive Waste
725.506 Special Requirements for Incompatible Wastes

SUBPART R: UNDERGROUND INJECTION

Section
725.530 Applicability

Appendix A Recordkeeping Instructions
Appendix B EPA Report Form and Instructions (Repealed)
Appendix C EPA Interim Primary Drinking Water Standards
Appendix D Tests for Significance
Appendix E Examples of Potentially Incompatible Waste

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1988 Supp. ch. 111-1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 831, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective January 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989.

SUBPART B: GENERAL FACILITY STANDARDS

Section 725.113 General Waste Analysis

a) Waste analysis:

- 1) Before an owner or operator treats, stores or disposes of any hazardous waste, the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store or dispose of

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the waste in accordance with the requirements of this Part and 35 Ill. Adm. Code 728.

- 2) The analysis may include data developed under 35 Ill. Adm. Code 721 and existing published or documented data on the hazardous waste or on waste generated from similar processes.

BOARD NOTE: For example, the facility's record of analyses performed on the waste before the effective date of these regulations or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility may be included in the data base required to comply with subsection (a)(1). The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part or all of the information required by subsection (a)(1). If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.

- 3) The analysis must be repeated as necessary to insure that it is accurate and up-to-date. At a minimum, the analysis must be repeated:

A) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed; and

B) For off-site facilities, when the results of the inspection required in subsection (a)(4) indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

- 4) The owner or operator of an off-site facility shall inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

b) The owner or operator shall develop and follow a written waste analysis plan which describes the procedures which the owner or operator will carry out to comply with subsection (a). The owner or operator shall keep this plan at the facility. At a minimum, the plan must specify:

- 1) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection

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(a).

- 2) The test methods which will be used to test for these parameters.

3) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

A) One of the sampling methods described in 35 Ill. Adm. Code 721, Appendix A or

B) An equivalent sampling method.

BOARD NOTE: See 35 Ill. Adm. Code 720.120(c) for related discussion.

- 4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.

5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply.

6) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in Sections 725.293, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475 and 725.502, and 35 Ill. Adm. Code 728.107. And,

7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for:

A) The sampling of impoundment contents;

B) The analysis of test data; and,

C) The annual removal of residues which are not delisted under 35 Ill. Adm. Code 720.122 and do not exhibit a characteristic of hazardous waste, and either:

1) Do-which do-not meet -the-applicable treatment standards of 35 Ill. Adm. Code 728, Subpart D- or
where-; or

ii) Where no treatment standards have been established--the annual removal of residues which do not meet the

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~~applicable prohibition levels in 35 Ill. Adm. Code 728.133(f). Such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139; or such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.133(f).~~

- c) For off-site facilities, the waste analysis plan required in subsection (b) must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

- 1) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and
- 2) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

(Source: Amended at 13 Ill. Reg. 18354 effective Nov. 13, 1989)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 725.173 Operating Record

- a) The owner or operator shall keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility.
 - 1) A description and the quantity of each hazardous waste received and the method or methods and date or dates of its treatment, storage or disposal at the facility as required by Appendix A;
 - 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities this information must include cross-references to specific manifest document numbers if the waste was accompanied by a manifest;

BOARD NOTE: See Sections 725.219, 725.379 and 725.409 for related requirements.

- 3) Records and results of waste analysis and trial tests performed

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as specified in Sections 725.113, 725.293, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475 and 725.502, and 35 Ill. Adm. Code 728.104(a) and 728.107;

- 4) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 725.156(j);
- 5) Records and results of inspections as required by Sections 725.115(d) (except these data need be kept only three years);
- 6) Monitoring, testing or analytical data where required by Sections 725.190, 725.194, 725.291, 725.293, 725.295, 725.376, 725.378, 725.380(d)(1), 725.447 and 725.477;

BOARD NOTE: As required by Section 725.194, monitoring data at disposal facilities must be kept throughout the post-closure period.

- 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244;

- 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, or a petition pursuant to 35 Ill. Adm. Code 728.106 or a certification under 35 Ill. Adm. Code 728.108, and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a)-(g);

- 9) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107-(a)-(g) or 728.108;

- 10) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107-(a)-(g), except for the manifest number or 728.108;

- 11) For an off-site land disposal facility, a copy of the notice and certification, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107-(a)-(g) and (e), or a copy of the notice and certification required of

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~~the generator under 35 Ill. Adm. Code 728.107(a)(2) or 728.108, whichever is applicable; and~~

- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107-(a)(2)-, except for the manifest number, ~~or the information contained in the notice required of the generator under 35 Ill. Adm. Code 728.107(b)(4), except for the manifest number, and the~~ certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.108, whichever is applicable.

- 13) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and,

- 14) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

SUBPART G: CLOSURE AND POST-CLOSURE

Section 725.212 Closure Plan; Amendment of Plan

- a) Written plan. The owner or operator of a hazardous waste management facility shall have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee or representative of the Agency.

- b) Content of plan. The plan must identify the steps necessary to perform partial ~~and/or~~ final closure of the facility at any point during its active life. The closure plan must include, at least:

- 1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 725.211; and
- 2) A description of how final closure of the facility will be conducted in accordance with Section 725.211. The description must identify the maximum extent of the operation which will be

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unclosed during the active life of the facility and

- 3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, and identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

- 4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

- 5) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control; and

- 6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included; and

- 7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Sections 725.243 or 725.245 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans.

- c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan shall submit a written request to the Agency to authorize a change to the approved closure plan. The written request must include a copy

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of the amended closure plan for approval by the Agency.

- 1) The owner or operator shall amend the closure plan, whenever:
 - A) changes in the operating plans or facility design affect the closure plan, or
 - B) whenever there is a change in the expected year of closure, if applicable, or
 - C) In conducting partial or final closure activities, unexpected events require a modification of the closure plan.
- 2) The owner or operator shall amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Section 725.410.
- 3) An owner or operator with an approved closure plan shall submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator shall submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Section 725.410. If the amendment to the plan is a ~~major~~-Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code ~~702.183, 702.185, and 702.187-703.280~~, the modification to the plan ~~will~~ shall be approved according to the procedures in subsection (d)(4).
- 4) The Agency may request modifications to the plan under the conditions described in subsection (c)(1). An owner or operator with an approved closure plan shall submit the modified plan within 60 days of the request from the Agency, or within 30 days if the unexpected event occurs during partial or final

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closure. If the amendment is considered a ~~major~~-Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code ~~702.183, 702.184, 702.185 and 702.187-703.280~~, the modification to the plan ~~will~~ shall be approved in accordance with the procedures in subsection (d)(4).

d) Notification of partial closure and final closure.

- 1) The owner or operator shall submit the closure plan to the Agency at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator shall submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage or incinerator units. Owners or operators with approved closure plans shall notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill or land treatment unit, or final closure of a facility involving such a unit. Owners and operators with approved closure plans shall notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage or incinerator units.
- 2) The date when the owner or operator "expects to begin closure" must be either within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator has taken and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Agency shall approve an extension to this one-year limit.
- 3) The owner or operator shall submit the closure plan to the Agency no later than 15 days after:
 - A) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of

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- interim status); or
- B) Issuance of a judicial decree or Board order to cease receiving hazardous wastes or close.

- 4) The Agency shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan no later than 30 days from the date of the notice. The Agency shall also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Agency shall give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments and the two notices may be combined.) The Agency shall approve, modify or disapprove the plan within 90 days of its receipt. If the Agency does not approve the plan, the Agency shall provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Agency shall approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved closure plan. The Agency shall assure that the approved plan is consistent with Sections 725.211 through 725.215 and the applicable requirements of Sections 725.190 et seq., 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481 and 725.504. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

- e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.214 Disposal or Decontamination of Equipment,
Structures and Soils

During the partial and final closure periods, all contaminated equipment, structures and soil-s must be properly disposed of, or decontaminated, unless specified otherwise in Sections 725.297, 725.328, 725.358, 725.380 or 725.410. By removing all hazardous wastes or hazardous constituents during

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partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.218 Post-closure Plan; Amendment of Plan

- a) Written Plan. The owner or operator of a hazardous waste disposal unit shall have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure shall prepare a post-closure plan and submit it to the Agency within 90 days after the date that the owner or operator or Agency determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of Sections 725.217 through 725.220.

- b) Until final closure of the facility, a copy of the most current post-closure plan must be furnished to the Agency upon request, including request by mail. In addition, for facilities without approved post-closure plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Agency. After final closure has been certified, the person or office specified in subsection (c)(3) shall keep the approved post-closure plan during the post-closure period.

- c) For each hazardous waste management unit subject to the requirements of this Section, the post-closure plan must identify the activities which will be carried on after closure of each disposal unit and the frequency of these activities and include at least:

- 1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M and N during the post-closure period;
- 2) A description of the planned maintenance activities and frequencies at which they will be performed to ensure:
 - A) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M and N; and
 - B) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M and N; and
- 3) The name, address and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

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d) Amendment of plan. The owner or operator may amend the post-closure plan at any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan shall submit a written request to the Agency to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the Agency.

- 1) The owner or operator shall amend the post-closure plan whenever:
 - A) Changes in operating plans or facility design affect the post-closure plan; or
 - B) Events occur during the active life of the facility, including partial and final closures, which affect the post-closure plan.
- 2) The owner or operator shall amend the post-closure plan at least 60 days prior to the proposed changes in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan.
- 3) An owner or operator with an approved post-closure plan shall submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with Sections 725.328(b) or 725.358(a) is required to close as a landfill in accordance with Section 725.410, the owner or operator shall submit a post-closure plan within 90 days after the determination by the owner or operator or Agency that the unit must be closed as a landfill. If the amendment to the post-closure plan is a ~~major~~-Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code ~~-702.183; 702.184; 702.185 and 702.187-703.280~~, the modification to the plan ~~shall~~-must be approved according to the procedures in sub-section (f).
- 4) The Agency may request modifications to the plan under the conditions described in above subsection (d)(1). An owner or operator with an approved post-closure plan shall submit the modified plan no later than 60 days after the request from the Agency. If the amendment to the plan is considered a ~~major~~-Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code ~~-702.183; 702.184; 702.185 and 702.187-703.280~~ the

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modifications to the post-closure plan ~~shall~~-must be approved in accordance with the procedures in subsection (f). If the Agency determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure shall close the facility as a landfill, the owner or operator shall submit a post-closure plan for approval to the Agency within 90 days after the determination.

- e) The owner or operator of a facility with hazardous waste management units subject to these requirements shall submit the post-closure plan to the Agency at least 180 days before the date the owner or operator expects to begin partial or final closure of the first hazardous waste disposal unit. The date when the owner or operator "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator shall submit the closure plan to the Agency no later than 15 days after:
 - 1) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or
 - 2) Issuance of a judicial decree or Board order to cease receiving wastes or close.
- f) Procedures.
 - 1) Except as provided in subsection (f)(2), the Agency shall provide the owner or operator and the public through a newspaper notice the opportunity to submit written comments on the post-closure plan and request modifications to the plan, no later than 30 days after the date of the notice. The Agency may also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the post-closure plan. The Agency shall give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments and the two notices may be combined.) The Agency shall approve, modify or disapprove the plan within 90 days of its receipt. If the Agency determines not to approve the plan, the Agency shall provide the owner or operator with a detailed statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after

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receiving such written statements. The Agency shall approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved post-closure plan. Any final Agency determination shall ensure that the approved post-closure plan is consistent with Sections 225.217 through 225.220. A copy of this modified plan with a detailed statement of reasons for the modifications ~~shall~~must be mailed to the owner or operator.

- 2) The Agency shall not provide notice or the opportunity for public comment if, in a prior proceeding, the Board has ordered the modifications to the plan.

- The owner or operator or any member of the public may petition to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the post-closure care period based on cause.
- A) The petition must include evidence demonstrating that:
- i) The secure nature of the hazardous waste management unit or facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology or alternative disposal, treatment or re-use techniques indicate that the facility is secure), or
- ii) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment. (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).
- B) These petitions will must be considered only when they present new and relevant information not previously considered.
- i) Except as provided in subsection (a)(1)(B)(i),

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reinstated to prevent threats to human health and the environment.

- h) The Agency procedures described in Sections 725.212 through 725.219 are in the nature of permit amendments. Amendment of refusal to amend the plan is a permit denial for purposes of appeal pursuant to 35 Ill. Adm. Code 105. The Agency shall not amend permits in such a manner so that the permit would not conform with Board regulations.

- i) If any person seeks a closure or post-closure care plan which would not conform with Board regulations, such person shall file a site-specific rulemaking petition pursuant to 35 Ill. Adm. Code 102 or a variance petition pursuant to 35 Ill. Adm. Code 104.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

SUBPART H: FINANCIAL REQUIREMENTS

Section 725.241 Definitions of Terms as Used in this Subpart

- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 725.212.

- b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b) and (c).

- c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b) and (c).

- d) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

- e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.

- f) The following terms are used in the specifications for the financial tests for closure, post-closure care and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" mean all existing and all probable future economic benefits obtained or controlled by a particular entity.

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"Current assets" mean cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b) and (c).

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

9) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given -these terms by applicable State law. However, these terms do not include those liabilities which consist with standard industry practices are excluded from coverage in liability policies for bodily injury and property damage-below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident including continuous or repeated exposure to conditions, which results in bodily

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injury or property damage neither expected nor intended from the standpoint of the insured.

"bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from 40 CFR 264.141 (1988), as amended at 53 Fed. Reg. 33950, September 1, 1988, modified to insert the Insurance Services Office definition.

"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous or thermal contaminants, irritants or pollutants.

BOARD NOTE: This term is used in the definition of "pollution incident".

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Unsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste.

BOARD NOTE: This definition is used in the definition of "pollution incident".

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release or escape results in "environmental damage". The entirety of any such emission, discharge, release or escape shall be deemed to be one "pollution incident". "Waste" includes materials to be recycled, reconditioned or reclaimed. The term "pollution incident" includes an "occurrence".

BOARD NOTE: This definition is used in the definition of

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"property damage".

"Property damage" means:

Either:

Physical injury to, destruction of or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of a "pollution incident".

This term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

BOARD NOTE: Derived from 40 CFR 264.141 (1988), as amended at 53 Fed. Reg. 33950, September 1, 1988, modified to insert the Insurance Services Office definition.

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

h) "Substantial business relationship" means that one business entity has an ownership interest in another.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage or disposal facility, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in subsections (a)(1), (a)(2), and (a)(3), (a)(4), (a)(5) and (a)(6):

- 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this

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paragraph.

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator shall provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer which-
~~as a minimum, is licensed to transact the business of~~
~~insurers or eligible to provide insurance as an excess or~~
~~surplus lines insurer, in one or more states- is licensed~~
~~by the Illinois Department of Insurance.~~

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the ~~separate-guarantee~~ for liability coverage as specified in subsection (f) and (g).

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage as specified in subsection (h).

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage as specified in subsection (i).

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage as specified in subsection (j).

6) An owner or operator may demonstrate the required liability coverage through the use of ~~the combinations of insurance,~~ financial test, ~~insurer, the separate-guarantee, a combination of the financial test and insurer or a combination of the separate guarantee and insurer-letter of credit,~~ surety bond and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by

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this ~~sub~~-Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.

7) An owner or operator shall notify the Agency within 30 days:

A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or

B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill or land treatment facility which is used to manage hazardous waste, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate. This liability coverage may be demonstrated ~~in one of three ways- as specified in subsections (b)(1), (b)(2), and (b)(3), (b)(4), (b)(5) and (b)(6):~~

1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidence by a Certificate of Liability Insurance. The wording of

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the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator shall provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer which-
~~at a minimum is licensed to transact the business of~~
~~insurers or eligible to provide insurance as an excess or~~
~~surplus lines insurer in one or more states--~~ is licensed
by the Illinois Department of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the ~~separate~~-guarantee for liability coverage as specified in subsections (f) and (g).

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage as specified in subsection (h).

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage as specified in subsection (i).

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage as specified in subsection (j).

6) An owner or operator may demonstrate the required liability coverage through the use of ~~the combinations of insurance,~~ financial test, ~~insurance,~~ the ~~separate~~-guarantee, ~~a combination of the financial test and insurance or a combination of the separate guarantee and insurance-letter of credit,~~ surety bond and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this ~~paragraph~~-Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.

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7) An owner or operator shall notify the Agency within 30 days:

A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or

B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted in writing to the Agency. If granted, the Agency's action ~~will~~-shall take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b). The Agency shall process any request for an adjusted level of required liability coverage as if it were a permit modification request under 35 Ill. Adm. Code 702.184(e)(3) and 705.128. Notwithstanding any other provision, the Agency shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Agency shall adjust the level of financial responsibility required under subsection (a) or (b) as may be necessary to protect human health and the environment. This adjusted level ~~shall~~-must be based on the Agency's assessment of the degree

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and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b). An owner or operator shall furnish to the Agency, within a time specified by the Agency in the request, which shall not be less than 30 days, any information which the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. The Agency shall process any request for an adjusted level of required liability coverage as if it were a permit modification request under 35 Ill. Adm. Code 702.184(e)(3) and 705.128. Notwithstanding any other provision, the Agency shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

- e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency shall notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.
- f) Financial test for liability coverage.

- 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of subsection (f)(1)(A) or (f)(1)(B):
- A) The owner or operator shall have:
- i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and
- ii) Tangible net worth of at least \$10 million; and
- iii) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six

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times the amount of liability coverage to be demonstrated by this test.

- B) The owner or operator shall have:
- i) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's, or Aaa, Aa, A or Baa as issued by Moody's; and
- ii) Tangible net worth of at least \$10 million; and
- iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and
- iv) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six times the amount of liability coverage to be demonstrated by this test.
- 2) The phrase "amount of liability coverage" as used in subsection (f)(1) refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b).
- 3) To demonstrate that the owner or operator meets this test, the owner or operator shall submit the following three items to the Agency:
- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it shall submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter as specified in 35 Ill. Adm. Code 724.251 is not required.
- B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
- C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

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- i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
- ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.

- 5) After the initial submission of items specified in subsection (f)(3), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3).

- 6) If the owner or operator no longer meets the requirements of subsection (f)(1), the owner or operator shall obtain insurance for the entire amount of required liability coverage as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

- 7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer of opinion ~~will be~~ is cause for disallowance. The Agency shall evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in this Section within 30 days after notification of disallowance.

g) ~~Separate~~ g-Guarantee for liability coverage.

- 1) Subject to subsection (g)(2), an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "~~separate~~ -guarantee." The guarantor ~~must~~ shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. The guarantor ~~must~~ shall meet the requirements for owners and operators in subsections (f)(1) through (f)(7-6). The wording of the ~~separate~~ -guarantee must be as specified in ~~Section~~ 35 111. Adm. Code 724.251. A certified copy of the

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~~separate~~ -guarantee must accompany the items sent to the Agency as specified in subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the ~~separate~~ -guarantee must provide that:

- A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this ~~separate~~ -guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

- B) The ~~separate~~ -guarantee ~~will~~ remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee ~~shall~~ must not be terminated unless and until the Agency approves alternate liability coverage complying with Section ~~724-725.247~~ or 35 111. Adm. Code ~~725-724.247~~.

- 2) The guarantor shall execute the guarantee in Illinois. The guarantee shall be accompanied by a letter signed by the guarantor which states that:

- A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
- B) The guarantee is governed by Illinois law; and
- C) The name and address of the guarantor's registered agent for service of process.

- 3) The guarantor shall have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 (111. Rev. Stat. 1987, ch. 32, par. 5.05) or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 (111. Rev. Stat. 1987, ch. 32, par. 105.05).

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- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.
- 2) The financial institution issuing the letter of credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
- 3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
- 1) Surety bond for liability coverage.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this subsection and submitting a copy of the bond to the Agency.
 - 2) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance.
 - 3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
- 1) Trust fund for liability coverage.
 - 1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund which conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.
 - 2) The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act. (Ill. Rev. Stat. 1987, ch. 17, par. 1561-1 et seq.)
 - 3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of

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establishment of the fund, shall either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage which is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

- 4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code 724.251.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

SUBPART J: TANK SYSTEMS

Section 725.290 Applicability

The regulations of this Subpart apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste, except as otherwise provided in subsections (a) or (b), or in Section 725.101.

- a) Tank-s- systems that are used to store or treat hazardous waste ~~containing~~ which contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements ~~of~~ in Section 725.293. To demonstrate the absence or presence of free liquids in the stored/treated waste, USEPA Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), incorporated by reference in 35 Ill. Adm. Code 720.111, must be used.

- b) Tank-s- systems, including sumps, as defined in 35 Ill. Adm. Code 720.110, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Section 725.293(a).

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.293 Containment and Detection of Releases

- a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in

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subsections (f) and (g)).

- 1) For all new tank systems or components, prior to their being put into service;
 - 2) For all existing tanks used to store or treat USEPA Hazardous Waste Numbers F020, F021, F022, F023, F026 and F027, as defined in 35 Ill. Adm. Code 721.131, within two years after January 12, 1987;
 - 3) For those existing tank systems of known and documentable age, within two years after January 12, 1987, or when the tank systems have reached 15 years of age, whichever come later;
 - 4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age or within two years of January 12, 1987, whichever comes later; and
 - 5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within the time intervals required in subsections (a)(1) through (a)(4), except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987.
- b) Secondary containment systems must be:
- 1) Designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater or surface water at any time during the use of the tank system; and
 - 2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
- c) To meet the requirements of subsection (b), secondary containment systems must be at a minimum:

- 1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation and the stress of daily operation (including stresses from nearby vehicular traffic);

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- 2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression or uplift;
 - 3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;
 - 4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.
- BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through 725. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Works (POTW--s--), it is subject to the requirements of Section 307 of the Clean Water Act as amended--35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of -49 CFR 302.6, incorporated by reference in 35 Ill. Adm. Code 720.111.

- d) Secondary containment for tanks must include one or more of the following devices:

- 1) A liner (external to the tank);
- 2) A vault;
- 3) A double-walled tank; or

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- 4) An equivalent device as approved by the Board in an adjusted standards proceeding.
- e) In addition to the requirements of subsections (b), (c) and (d), secondary containment systems must satisfy the following requirements:

- 1) External liner systems must be:
 - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the liner system's boundary;
 - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
 - C) Free of cracks or gaps; and
 - D) Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).
- 2) Vault systems must be:
 - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
 - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
 - C) Constructed with chemical-resistant water stops in place at all joints (if any);
 - D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
 - E) Provided with a means to protect against the formation of

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and ignition of vapors within the vault, if the waste being stored or treated:

- i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or
- ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and

F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) Double-walled tanks must be:

- A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;
- B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and
- C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

BOARD NOTE: The provisions outlined in the Steel Tank Institute (STI) "Standard for Dual Wall Underground Steel Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111, may be used as guidelines for aspects of the design of underground steel double-walled tanks.

f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of subsections (h) and (c) except for:

- 1) Aboveground piping (exclusive of flanges, joints, valves and connections) that are visually inspected for leaks on a daily basis;
- 2) Welded flanges, welded joints and welded connections that are visually inspected for leaks on a daily basis;

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- 3) Sealtess or magnetic coupling pumps and sealtess valves that are visually inspected for leaks on a daily basis; and
- 4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

9) Pursuant to Section 28.1 of the Environmental Protection Act, and in accordance with 35 Ill. Adm. Code 106.Subpart D, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (9)(2).

- 1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:
- A) The nature and quantity of the waste;
 - B) The proposed alternate design and operation;
 - C) The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and
 - D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.
- 2) In deciding whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

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- A) The potential adverse effects on groundwater, surface water and land quality taking into account:
- i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;
 - ii) The hydrogeological characteristics of the facility and surrounding land;
 - iii) The potential for health risks caused by human exposure to waste constituents;
 - iv) The potential for damage to wildlife; crops, vegetation and physical structures caused by exposure to waste constituents; and
 - v) The persistence and permanence of the potential adverse effects.

- B) The potential adverse effects of a release on groundwater quality, taking into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The proximity and withdrawal rates of water in the area;
 - iii) The current and future uses of groundwater in the area; and
 - iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.
- C) The potential adverse effects of a release on surface water quality, taking into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The patterns of rainfall in the region;
 - iii) The proximity of the tank system to surface waters;
 - iv) The current and future uses of surface waters in the area and water quality standards established for those

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surface waters; and

- v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality. And,

- D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

- i) The patterns of rainfall in the region; and
ii) The current and future uses of the surrounding land.

- 3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), shall:

- A) Comply with the requirements of Section 725.296, except Section 725.296(d); and

- B) Decontaminate or remove contaminated soil to the extent necessary to:

- i) Enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

- ii) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.

- C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), comply with the requirements of Section ~~724-725.297~~(b).

- 4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, shall:

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- A) Comply with the requirements of Section 725.296(a), (b), (c) and (d); and

- B) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator shall comply with the requirements of Section 725.297(b);

- C) If repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (a) through (f), or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the requirements for new tank systems in Section 725.292 if the tank system is replaced. The owner or operator shall comply with these requirements even if contaminated soil is decontaminated or removed, and groundwater or surface water has not been contaminated.

- h) In order to make an alternative design and operating practices demonstration, the owner or operator shall follow the following procedures, in addition to those specified in 35 Ill. Adm. Code 106.Subpart D:

- 1) The owner or operator shall file a petition for approval of alternative design and operating practices according to the following schedule:

- A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a); and

- B) For new tank systems, at least 30 days prior to entering into a contract for installation of the tank system.

- 2) As part of the petition, the owner or operator shall also submit to the Board:

- A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g)(1) or (g)(2); and

- B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

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- 3) The owner or operator shall complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.
- 4) The Agency shall issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.
- 1) All tank systems, until such time as secondary containment meeting the requirements of this Section is provided, must comply with the following:
 - 1) For non-enterable underground tanks, a leak test that meets the requirements of Section 725.291(b)(5) must be conducted at least annually;
 - 2) For other than non-enterable underground tanks and for all ancillary equipment, an annual leak test, as described in subsection (i)(1), or an internal inspection or other tank integrity examination, by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion and erosion must be conducted at least annually. The owner or operator shall remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

BOARD NOTE: The practices described in API Publication, Guide for Inspection of Refining Equipment, Chapter XIII, "Atmospheric and Low Pressure Storage Tanks", incorporated by reference in 35 Ill. Adm. Code 720.111, may be used, when applicable, as guidelines for assessing the overall condition of the tank system.

- 3) The owner or operator shall maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3).
- 4) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3), the owner or operator shall comply with the requirements of Section 725.296.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.296 Response to leaks or spills and disposition of Tank Systems

A tank system or secondary containment system from which there has been a leak

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- or spill, or which is unfit for use, must be removed from service immediately. The owner or operator shall satisfy the following requirements:
- a) Cease using; prevent flow or addition of wastes. The owner or operator shall immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.
 - b) Removal of waste from tank system or secondary containment system.
 - 1) If the release was from the tank system, the owner or operator shall, within 24 hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.
 - 2) If the release was to a secondary containment system, all released materials must be removed within 24 hours to prevent harm to human health and the environment.
 - c) Containment of visible releases to the environment. The owner or operator shall immediately conduct a visual inspection of the release and, based upon that inspection:
 - 1) Prevent further migration of the leak or spill to soils or surface water; and
 - 2) Remove, and properly dispose of, any visible contamination of the soil or surface water.
 - d) Notifications, reports.
 - 1) Any release to the environment, except as provided in subsection (d)(2), must be reported to the Agency within 24 hours of detection.
 - 2) A leak or spill of hazardous waste is exempted from the requirements of this paragraph if it is:
 - A) Less than or equal to a quantity of one (1) pound; and
 - B) Immediately contained and cleaned-up.
 - 3) Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Agency:
 - A) Likely route of migration of the release;

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- B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);
- C) Results of any monitoring or sampling conducted in connection with the release, (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available.
- D) Proximity to downgradient drinking water, surface water and population areas; and
- E) Description of response actions taken or planned.
- e) Provision of secondary containment, repair or closure.

- 1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4), the tank system must be closed in accordance with Section 725.297.
- 2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.
- 3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.
- 4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator shall provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 725.293 before it is returned to service, unless the source of the leak is an aboveground portion of a tank system. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) are satisfied. If a component is replaced to comply with the requirements of this subparagraph, that component must satisfy the requirements for new tank systems or components in Sections 725.292 and 725.293. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with Section

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725.293 prior to being returned to use.

- f) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with subsection (e), and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner or operator has obtained a certification by an independent qualified, registered professional engineer in accordance with 35 Ill. Adm. Code 702.126(d) that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the Agency within seven days after returning the tank system to use.

BOARD NOTE: See Section 725.115(c) for the requirements necessary to remedy a failure. Also, 40 CFR 302.419861-302.6, incorporated by reference in 35 Ill. Adm. Code 720.111, requires the owner or operator to notify the National Response Center of a release of any "reportable quantity."

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

Section 725.301 Generators of 100 to 1000 kg/mo.

- a) The requirements of this Section apply to small quantity generators of more than 100 kg but less than 1000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.
- b) Generators of between 100 and 1000 kg/mo hazardous waste shall comply with the following general operating requirements:
- 1) Treatment or storage of hazardous waste in tanks must comply with Section 725.117(b).
- 2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode or otherwise fail before the end of its intended life.
- 3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g. dike or trench), a drainage control system or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

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- 4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

BOARD NOTE - These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

- c) Generators of between 100 and 1000 kg/mo accumulating hazardous waste in tanks shall inspect, where present:

- 1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;
- 2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;
- 3) The level of waste in the tank at least once each operating day to ensure compliance with ~~Section 725.232(e)~~ subsection (b)(3);
- 4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and
- 5) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

BOARD NOTE: As required by Section 725.115(c), the owner or operator must remedy any deterioration or malfunction the owner or operator finds.

- d) Generators of between 100 and 1000 kg/mo accumulating hazardous waste in tanks shall, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment and discharge confinement structures.

BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(c) or (d), that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723 and 725.

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- e) Generators of between 100 and 1000 kg/mo shall comply with the following special requirements for ignitable or reactive waste:

- 1) Ignitable or reactive waste must not be placed in a tank, unless:

A) The waste is treated, rendered or mixed before or immediately after placement in a tank so that:

i) The resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123, and

ii) Section 725.117(b) is complied with; or

B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

C) The tank is used solely for emergencies

- 2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks shall comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," incorporated by reference in 35 Ill. Adm. Code 720.111.

- f) Generators of between 100 and 1000 kg/mo shall comply with the following special requirements for incompatible wastes:

- 1) Incompatible wastes, or incompatible wastes and materials (see Appendix E for examples) must not be placed in the same tank, unless Section 725.117(b) is complied with.

- 2) Hazardous waste must not be placed in an unashed tank which previously held an incompatible waste or material, unless Section 725.117(b) is complied with.

(Source: Amended at 13 Ill. Reg. 18354, effective Nov. 13, 1989)

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- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 728

3) Section Numbers:

728.101, 728.104, 728.105, 728.106, 728.107

Amendments

728.108

New Section

728.130, 728.131, 728.132

Amendments

728.133

New Section

728.140, 728.142

Amendments

728.143

New Section

728.144, 728.150, 728. Table A

Amendments

728. Table B

New Section

728. App A, 728. App B

Amendments

- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.

- 5) Effective Date of Amendment: November 13, 1989

- 6) Does this rulemaking contain an automatic repeal date?: No.

- 7) Does this amendment contain incorporations by reference?

Yes. This Part incorporates federal regulations by reference. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply.

- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.

- 9) Notice of Proposal Published in Illinois Register:

June 30, 1989; 13 Ill. Reg. 9786

- 10) Has JCAR issued a Statement of Objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

- 11) Differences between proposal and final version:

Minor editorial differences.

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In Section 728.131(b), a delayed effective date has been inserted. In Section 728.132(d)(1), a "not" has been inserted. In Table A, under F006, the standard for silver has been corrected.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

- 13) Will this amendment replace an emergency amendment currently in effect? No.

- 14) Are there any other amendments pending on this Part? No.

- 15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

The amendments to Part 728 concern the restrictions on landfilling the "first third" wastes. These are listed in Section 728.133. The amendments also add Section 728.143, which contains treatment standards expressed as a constituent concentration in the waste itself (CCW). The standards are contained in new Table B.

The amendments to Section 728.106 include reporting pursuant to and reopening of adjusted standards. The Board has generally required such reports to be directed to the Environmental Protection Agency, and to require the petitioner or Agency to file a new petition for adjusted standard under certain circumstances.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 728
LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL

Section
728.101 Purpose, Scope and Applicability
728.102 Definitions
728.103 Dilution Prohibited as a Substitute for Treatment
728.104 Treatment Surface Impoundment Exemption
728.105 Procedures for case-by-case Extensions to an Effective Date
728.106 Petitions to Allow Land Disposal of a Waste Prohibited under
Subpart C
728.107 Waste Analysis
728.108 Landfill and Surface Impoundment Disposal Restrictions

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section
728.130 Waste Specific Prohibitions -- Solvent Wastes
728.131 Waste Specific Prohibitions -- Dioxin-Containing Wastes
728.132 Waste Specific Prohibitions -- California List Wastes
728.133 Waste Specific Prohibitions -- First Third Wastes
728.139 Statutory Prohibitions

SUBPART D: TREATMENT STANDARDS

Section
728.140 Applicability of Treatment Standards
728.141 Treatment Standards expressed as Concentrations in Waste Extract
728.142 Treatment Standards expressed as Specified Technologies
728.143 Treatment Standards expressed as Waste Concentrations
728.144 Adjustment of Treatment Standard

SUBPART E: PROHIBITIONS ON STORAGE

Section
728.150 Prohibitions on Storage of Restricted Wastes
Table A Constituent Concentrations in Waste Extract (CCWE)
Table B Constituent Concentrations in Waste (CCW)
Appendix A Toxicity Characteristic Leaching Procedure (TCLP)
Appendix B Treatment Standards (As concentrations in the Treatment Residual Extract)
Appendix C List of Halogenated Organic Compounds

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the

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Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R87-5 at 11 111. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 111. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 111. Reg. 18403, effective November 13, 1989.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

- b) Except as specifically provided otherwise in this Part or 35 111. Adm. Code 721, the requirements of this Part apply to persons who generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage and disposal facilities.

- c) Prohibited wastes may continue to be land disposed as follows:

- 1) Where persons have been granted an extension to the effective date of a prohibition under Subpart C or pursuant to Section 728.105, with respect to those wastes covered by the extension;

- 2) Where persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;

- 3) Until November 8, 1989, where the wastes are contaminated soil or debris resulting from a response action taken under Section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 et seq.) or under RCRA corrective action, as defined in Section 728.102; -

- 4) Where the waste is generated by small quantity generators of less than 100 kilograms of non-acute hazardous wastes per month or less than one kilogram of acute hazardous waste per month, as defined in 35 111. Adm. Code 721.105; or,

- 5) Where a farmer is disposing of waste pesticides in accordance with 35 111. Adm. Code 722.170.

- 6) Prior to May 8, 1990, in a landfill or surface impoundment unit where all applicable persons are in compliance with the requirements of Section 728.108, with respect to wastes which

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are not subject to the treatment standards set forth in Subpart D, and which are not subject to the prohibitions in Section 728.132 or 728.139.

- d) This Part does not affect the availability of a waiver under Section 121(d)(4) of CERCLA.

- e) This Part is cumulative with the land disposal restrictions of 35 111. Adm. Code 729. The Environmental Protection Agency (Agency) shall not issue a wastewater authorization pursuant to 35 111. Adm. Code 709 or Sections 22.6 or 39(h) of the Environmental Protection Act (111. Rev. Stat. -1985-1987, ch. 111 1/2, pars. 1022.6 or 1039(h)) unless the waste meets the requirements of this Part as well as 35 111. Adm. Code 729.

(Source: Amended at 13 111. Reg. 18403, effective 11/13/89)

Section 728.104 Treatment Surface Impoundment Exemption

- a) Wastes which are otherwise prohibited from land disposal under this Part may be treated in a surface impoundment or series of impoundments provided that:

- 1) Treatment of such wastes occurs in the impoundments;

- 2) -The residues of the treatment are analyzed, as specified in Section 728.107 or 728.132, to determine if they meet the applicable treatment standards in Subpart B or, where no treatment standards have been established for the waste, the applicable prohibition levels specified in Subpart C. The sampling method specified in the waste analysis plan under 35 111. Adm. Code 724.113 or 725.113, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples. The treatment residues (including any liquid waste) that do not meet the treatment standards promulgated under Subpart B or the applicable prohibition levels promulgated under Subpart C or are not tested under 35 111. Adm. Code 724.112 and no longer exhibit a characteristic of hazardous waste, must be removed at least annually. These residues shall not be placed in any other surface impoundment for subsequent management. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. The procedures and schedule for the sampling of impoundment contents, the analysis of test data and the annual removal of residue which does not meet the Subpart B treatment

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standards, or Subpart G, must be specified in the facility's waste analysis plan as required under 35 Ill. Adm. Code 724.113 or 725.113. The following conditions are met:

A) Sampling and testing. For wastes with treatment standards in Subpart D or prohibition levels in Subpart C, the residues from treatment are analyzed, as specified in Section 728.107 or 728.132, to determine if they meet the applicable treatment standards or, where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under 35 Ill. Adm. Code 724.113 or 725.113, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

B) Removal. The following treatment residues (including any liquid waste) must be removed at least annually: residues which do not meet the treatment standards promulgated under Subpart D; residues which do not meet the prohibition levels established under Subpart C or Section 728.139 (where no treatment standards have been established); residues which are from the treatment of wastes prohibited from land disposal under Subpart C (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes which are not delisted under 35 Ill. Adm. Code 720.122. However, residues which are the subject of a valid certification under Section 728.108 made no later than a year after placement of the wastes in an impoundment are not required to be removed annually. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement.

C) Subsequent management. Treatment residues must not be placed in any other surface impoundment for subsequent management unless the residues are the subject of a valid certification under Section 728.108 which allows disposal in surface impoundments meeting the requirements of Section 728.108(a).

D) Recordkeeping. The procedures and schedule for the sampling of impoundment contents, the analysis of test data and the annual removal of residues which do not meet the treatment standards, or prohibition levels (where no

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treatment standards have been established), or which are from the treatment of wastes prohibited from land disposal under Subpart C (where no treatment standards have been established and no prohibition levels apply), must be specified in the facility's waste analysis plan as required under 35 Ill. Adm. Code 724.113 or 725.113.

3) The impoundment meets the design requirements of 35 Ill. Adm. Code 724.321(c) or 725.321(a) even though the unit may not be new, expanded or a replacement, and must be in compliance with applicable groundwater monitoring requirements of 35 Ill. Adm. Code 724.Subpart F or 725.Subpart F, unless:

A) It is exempted pursuant to 35 Ill. Adm. Code 724.321(d) or (e), or to 35 Ill. Adm. Code 725.321(c) or (d); or

B) Upon application by the owner or operator, the Agency has by permit provided that the requirements of this Part do not apply on the basis that the surface impoundment:

i) Has at least one liner, for which there is no evidence that such liner is leaking;

ii) Is located more than one-quarter mile from an underground source of drinking water; and

iii) Is in compliance with generally applicable groundwater monitoring requirements for facilities with permits; or,

C) Upon application by the owner or operator, the Board has, pursuant to 35 Ill. Adm. Code 106, granted an adjusted standard from the requirements of this Part. The justification for such an adjusted standard shall be a demonstration that the surface impoundment is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time. And,

4) The owner or operator submits to the Agency a written certification that the requirements of Section 728.104(a)(3) have been met and submits a copy of the waste analysis plan required under Section 728.104(a)(2). The following certification is required:

I certify under penalty of law that the requirements of 35 Ill. Adm. Code 728.104(a)(3) have been met for all surface impoundments being used to treat restricted wastes. I

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believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- b) Evaporation of hazardous constituents as the principal means of treatment is not considered to be a treatment for purposes of an exemption under this Section.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.105 Procedures for case-by-case Extensions to an Effective Date

- a) The Board incorporates by reference 40 CFR 268.5 -(1987) as amended at 52 Fed. Reg. 25769 July 8, 1987-(1988), as amended at 53 Fed. Reg. 31211, August 17, 1988. This Part incorporates no future editions or amendments.

- b) Persons may apply to USEPA for extensions of effective dates pursuant to 40 CFR 268.5. Extensions which are granted by USEPA will be deemed extensions of dates specified in the derivative Board rule.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.106 Petitions to Allow Land Disposal of a Waste Prohibited under Subpart C

- a) Any person seeking an exemption from a prohibition under Subpart C for the disposal of a restricted hazardous waste in a particular unit or units shall submit a petition to the Board demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components:

- 1) An identification of the specific waste and the specific unit for which the demonstration will be made;
- 2) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;
- 3) A comprehensive characterization of the disposal unit site including an analysis of background air, soil and water quality;
- 4) A monitoring plan which detects migration at the earliest practical time;

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- 5) Sufficient information to assure the Agency that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, state and local laws.

- 4 6) Whether the facility is in interim status, or, if a RCRA permit has been issued, the term of the permit.

- b) The demonstration referred to in subsection (a) must meet the following criteria:

- 1) All waste and environmental sampling, test and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;
- 2) All sampling, testing and estimation techniques for chemical and physical properties of the waste and all environmental parameters must conform with "Test Methods for Evaluating Solid Waste" and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," incorporated by reference in 35 Ill. Adm. Code 720.111.
- 3) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;
- 4) A quality assurance and quality control plan that addresses all aspects of the demonstration and conforms with "Test Methods for Evaluating Solid Waste" and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," incorporated by reference in 35 Ill. Adm. Code 720.111, and
- 5) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts or other natural phenomena.

- c) Each petition referred to in subsection (a) must include the following:

- 1) A monitoring plan that describes the monitoring program installed at or around the unit to verify continued compliance with the conditions of the adjusted standard. This monitoring plan must provide information on the monitoring of the unit or the environment around the unit. The following specific information must be included in the plan:

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- A) The media monitored in the cases where monitoring of the environment around the unit is required;
- B) The type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;
- C) The location of the monitoring stations;
- D) The monitoring interval (frequency of monitoring at each station);
- E) The specific hazardous constituents to be monitored;
- F) The implementation schedule for the monitoring program;
- G) The equipment used at the monitoring stations;
- H) The sampling and analytical techniques employed; and
- I) The data recording and reporting procedures.
- 2) Where applicable, the monitoring program described in subsection (C)(1) must be in place for a period of time specified by the Board, as part of its approval of the petition, prior to receipt of prohibited waste at the unit.
- 3) The monitoring data collected according to the monitoring plan specified under subsection (C)(1) must be sent to the Agency according to a format and schedule specified and approved in the monitoring plan, and
- 4) A copy of the monitoring data collected under the monitoring plan specified under subsection (C)(1) must be kept on-site at the facility in the operating record.
- 5) The monitoring program specified under subsection (C)(1) must meet the following criteria:
- A) All sampling, testing and analytical data must be approved by the Board and must provide data that is accurate and reproducible.
- B) All estimation and monitoring techniques must be approved by the Board.
- C) A quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and

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- e d) Each petition must be submitted to the Board as provided in 35 Ill. Adm. Code 106.
- e) After a petition has been approved, the owner or operator shall report any changes in conditions at the unit or the environment around the unit that significantly depart from the conditions described in the petition and affect the potential for migration of hazardous constituents from the units as follows:
- 1) If the owner or operator plans to make changes to the unit design, construction or operation, the owner or operator shall, at least 90 days prior to making the change, either:
- A) File a petition for modification of or a new petition to amend an adjusted standard with the Board reflecting the changes; or,
- B) Demonstrate to the Agency that the change can be made consistent with the conditions of the existing adjusted standard.
- 2) If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Agency within 10 days of discovering the change. The Agency shall determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance, a petition for modification of or a new petition for an adjusted standard.
- f) If there is migration of hazardous constituent(s) from the unit, as determined by the owner or operator, the owner or operator shall:
- 1) Immediately suspend receipt of restricted waste at the unit, and
- 2) Notify the Agency, in writing, within 10 days of the determination that a release has occurred.
- 3) Following receipt of the notification, the Agency shall, within 60 days of receiving notification:
- A) Determine whether the owner and operator can continue to receive prohibited waste in the unit under the conditions of the adjusted standard.
- B) If modification or vacation of the adjusted standard is approved by the Board.

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necessary, file a motion to modify or vacate the adjusted standard with the Board.

- c) Determine whether further examination of any migration is required under the applicable provisions of 35 Ill. Adm. Code 724 or 725.

- d) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- e) After receiving a petition, the Board may request any additional information that may be required to evaluate the demonstration.

- f) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

- g) The Board will give public notice and provide an opportunity for public comment as provided in 35 Ill. Adm. Code 106. Notice of a final decision on a petition will be published in the Environmental Register.

- h) The term of a petition granted under this Section will be no longer than the term of the RCRA permit if the disposal unit is operating under a RCRA permit, or up to a maximum of 10 years from the date of approval provided under subsection (g) if the unit is operating under interim status. In either case, the term of the granted petition shall expire upon the termination or denial of a RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

- i) Prior to the Board's decision, the applicant shall comply with all restrictions on land disposal under this Part once the effective date for the waste has been reached.

- j) The petition granted by the Board does not relieve the petitioner of responsibilities in the management of hazardous waste under 35 Ill.

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Adm. Code 702, 703 and 720 through 726.

- k) n) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm are not eligible for an adjusted standard under this Section.

- (Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)
Section 728.107 Waste Analysis

- a) Except as specified in Section 728.132 or 728.143, the generator shall test the generator's waste, or test an extract developed using the test method described in Appendix A, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this Part.

- 1) If a generator determines that the generator is managing a restricted waste under this Part and determines that the waste does not meet the applicable treatment standards set forth in Subpart D or ~~does not empty with exceeds~~ the applicable prohibition-5- levels set forth in Section 728.132 or 728.139, with each shipment of waste the generator shall notify the treatment or storage facility in writing of the appropriate treatment standard set forth in Subpart D and any applicable prohibition-5- levels set forth in Section 728.132 or 728.139. The notice must include the following information:

- A) USEPA Hazardous Waste Number;
- B) The corresponding treatment standard and all applicable standards set forth in Section 728.132 or 728.139;
- C) The manifest number associated with the shipment of waste; and
- D) Waste analysis data, where available.

- 2) If a generator determines that the generator is managing a restricted waste under this Part, and determines that the waste can be land disposed without further treatment, with each shipment of waste the generator shall submit, to the treatment storage or land disposal facility, a notice and a certification stating that the waste meets the applicable treatment standards set forth in Subpart D and the applicable prohibition levels set forth in Section 728.132 or 728.139.

- A) The notice must include the following information:

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- i) USEPA Hazardous Waste Number;
 - ii) The corresponding treatment standard;
 - iii) The manifest number associated with the shipment of waste;
 - iv) Waste analysis data, where available.
- B) The certification must be signed by an authorized representative and must state the following:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in 35 Ill. Adm. Code 728.132, 728.139 or Section 3004(d) of the Resource Conservation and Recovery Act. I believe that the information I submitted is true, accurate and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

- 3) If a generator's waste is subject to a case-by-case extension under Section 728.105, an exemption under Section 728.106, an extension under Section 728.101(c)(3) or a nationwide variance under 40 CFR 268.101(c)(3), with each shipment of waste, the generator shall forward-submit a notice with the waste to the land disposal facility receiving the generator's waste, stating that the waste is exempt from the land disposal prohibitions-not prohibited from land disposal. The notice must include the following information:

- A) EPA hazardous waste number;
 - B) The corresponding treatment standards and all applicable prohibitions set forth in Section 728.132 or 728.139;
 - C) The manifest number associated with the shipment of waste;
 - D) Waste analysis data, where available, and
 - E) The date the waste is subject to the prohibitions.
- 4) If a generator determines that the generator is managing a waste

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that is subject to the prohibitions under Section 728.133(f) and is not subject to the prohibitions set forth in Section 728.132, with each shipment of waste, the generator shall notify the treatment storage or disposal facility, in writing, of any applicable prohibitions set forth in Section 728.133(f). The notice must include the following information:

- A) USEPA hazardous waste number;
- B) The applicable prohibitions set forth in Section 728.133(f);
- C) The manifest number associated with the shipment of waste; and
- D) Waste analysis data where available.

- 4
- 5) If a generator determines whether the waste is restricted based solely on the generator's knowledge of the waste, the generator shall maintain all supporting data used to make this determination on-site in the generator's files. If a generator determines whether the waste is restricted based on testing the waste or an extract developed using the test method described in Appendix A, the generator shall retain all waste analysis data on site in the generator's files.

- 6) Generators shall retain on-site a copy of all notices, certifications, demonstrations, waste analysis data and other documentation produced pursuant to this Section for at least five years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment storage or disposal. The five year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Agency.

- b)
- 1) Treatment facilities shall test their wastes according to the frequency specified in their waste analysis plans as required by 35 Ill. Adm. Code 724.113 or 725.113. Such testing must be performed as provided in subsections (b)(1), (b)(2) and (b)(3).
- 1) For wastes with treatment standards expressed as concentrations in the waste extract (Section 728.141), the owner or operator of the treatment facility shall test the treatment residues or an extract of such residues developed using the test method described in Appendix A to assure that the treatment residues or extract meet the applicable treatment standards.

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2)

For wastes prohibited under Section 728.132 or 728.139 which are not subject to any treatment standards under Subpart D, the owner or operator of the treatment facility ~~must~~ shall test the treatment residues according to the generator testing requirements specified in Section 728.132 to assure that the treatment residues comply with the applicable prohibitions. ~~For both circumstances described above, such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by 35 Ill. Adm. Code 724.113 or 725.113. Where the treatment residues do not comply with the treatment standards or prohibitions, the treatment facility must comply with the notice requirements applicable to generators in subsection (a)(1) if the treatment residues will be further managed at a different treatment facility.~~

3)

For wastes with treatment standards expressed as concentrations in the waste (Section 728.143), the owner or operator of the treatment facility shall test the treatment residues (not an extract of such residues) to assure that the treatment residues meet the applicable treatment standards.

4)

A notice must be sent to the land disposal facility which includes the following information:

- A) USEPA Hazardous Waste Number;
 - B) The corresponding treatment standards and all applicable prohibitions set forth in Section 728.132 or 728.139.
 - C) The manifest number associated with the shipment of waste; and
 - D) Waste analysis data, where available.
- 5) The treatment facility shall submit a certification with each shipment of waste or treatment residue of a restricted waste to the land disposal facility stating that the waste or treatment residue has been treated in compliance with the treatment standards specified in Subpart D and the applicable prohibitions set forth in Section 728.132 or 728.139.

A) For wastes with treatment standards expressed as concentrations in the waste extract or in the waste (Sections 728.141 or 728.143), or for wastes prohibited under Section 728.132 or 728.139 which are not subject to any treatment standards under Subpart D, the certification must be signed by an authorized representative and must state the following:

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I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the performance levels specified in 35 Ill. Adm. Code 728.132 and all applicable prohibitions set forth in 35 Ill. Adm. Code 728.132 or 728.139 or section 3004(d) of the Resource Conservation and Recovery Act without dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

B) For wastes with treatment standards expressed as technologies (Section 728.142), the certification must be signed by an authorized representative and must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.142. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

If the waste or treatment residue will be further managed at a different treatment or storage facility, the treatment, storage or disposal facility sending the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this Section.

For wastes that are subject to the prohibitions under Section 728.133(f) and are not subject to the prohibitions set forth in Section 728.132, with each shipment of such waste the owner or operator shall notify any subsequent treatment, storage or disposal facility in writing, of any applicable prohibitions in writing, of any applicable prohibitions set forth in Section 728.133(f). The notice must include the following information:

- A) USEPA hazardous waste number;
- B) The applicable prohibitions set forth in Section 728.133(f);

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- C) The manifest number associated with the shipment of waste;
and
D) Waste analysis data, where available.

8) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), the owner or operator of a treatment facility (the recycler) is not required to notify the receiving facility pursuant to subsection (b)(4). With each shipment of such wastes the owner or operator of the recycling facility shall submit a certification described in subsection (b)(5), and a notice which includes the information listed in subsection (b)(4) (except the manifest number) to the Agency. The recycling facility also shall keep records of the name and location of each entity receiving the hazardous waste-derived product.

c) The owner or operator of any land disposal facility disposing any waste subject to restrictions under this Part shall have records of the notice and certification specified in either subsection (a) or (b). The owner or operator of the land disposal facility shall test the waste or an extract of the waste developed using the test method described in Appendix A, or using any methods required of generators under Section 728.132, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in Subpart B and all applicable prohibitions set forth in Section 728.132 or 728.139. Such testing shall be performed according to the frequency specified in the facility's waste analysis plan as required by 35 Ill. Adm. Code 724.113 or 725.113--.

- 1) Have copies of the notice and certification specified in subsection (a) or (b), and the certification specified in Section 728.108 if applicable.
- 2) Test the waste, or an extract of the waste or treatment residue developed using the test method described in Appendix A or using any methods required by generators under Section 728.132, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in Subpart D and all applicable prohibitions set forth in Sections 728.132 or 728.139. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by 35 Ill. Adm. Code 724.113 or 725.113.
- 3) Where the owner or operator is disposing of any waste that is subject to the prohibitions under Section 728.133(f) but not

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subject to the prohibitions set forth in Section 728.132, the owner or operator shall ensure that such waste is the subject of a certification according to the requirements of Section 728.108 prior to disposal in a landfill or surface impoundment unit, and that such disposal is in accordance with the requirements of Section 728.105(h)(2). The same requirement applies to any waste that is subject to the prohibitions under Section 728.133(f) and also is subject to the statutory prohibitions in the codified prohibitions in Section 728.139 or Section 728.132

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.108 Landfill and Surface Impoundment Disposal Restrictions

The Board incorporates by reference 40 CFR 268.8, as adopted at 53 Fed. Reg. 31211, August 17, 1988. This Section incorporates no future editions or amendments. Prior to May 8, 1990, wastes which are otherwise prohibited from land disposal under Section 728.133(f) may be disposed in a landfill or surface impoundment which is in compliance with the requirements of 40 CFR 268.5(h)(2), provided the requirements of 40 CFR 268.8 are met.

(Source: Added at 13 Ill. Reg. 18403 effective Nov. 13, 1989)

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section 728.130 Waste Specific Prohibitions -- Solvent Wastes

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 as USEPA Hazardous Waste -- Non-Numbers F001, F002, F003, F004 and F005 are prohibited under this Part from land disposal (except in an injection well) unless one or more of the following conditions apply:
- 1) The generator of the solvent waste is a small quantity generator of 100 to 1000 kilograms of hazardous waste per month; or
- 2) The solvent waste is generated from any response action taken under CERCLA or from RCRA corrective action except where the waste is contaminated soil or debris-- see subject to 35 Ill. Adm. Code 702.703 and 720 through 726; or 40 CFR 260 through 270 (1986) until November 8, 1988; or
- 3) The initial generator's solvent waste is a solvent-water mixture, solvent-containing sludge or solid, or solvent-contaminated soil (non-CERCLA or non-RCRA corrective action) containing less than 1 percent total F001 through F005 solvent constituents listed in Table A-- of Section 728.141--.
- 4) The solvent waste is a residue from treating a waste described

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in subsections (a)(1), (a)(2) or (a)(3); or the solvent waste is a residue from treating a waste not described in subsections (a)(1), (a)(2) or (a)(3) provided such residue belongs to a different treatability group than the waste as initially generated and wastes belonging to such treatability group are described in subsection (a)(3).

- b) ~~Effective November 8, 1988, the F001 through F005 solvent wastes listed in subsections (a)(1), (a)(2), or (a)(3) or (a)(4) are prohibited from land disposal. Between November 8, 1986, and November 8, 1988, wastes included in subsections (a)(1), (a)(2) or (a)(3) may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements specified in Section 728.106(h)(2).~~

- c) Effective November 8, 1990, the F001 through F005 solvent wastes which are contaminated soil and debris resulting from a CERCLA response or RCRA corrective action or the residue from treatment of these wastes are prohibited from land disposal. Until November 8, 1990, these wastes may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2), incorporated by reference in Section 728.105.

- d) The requirements of subsections (a), a and (b) and (c) do not apply if:

- 1) The wastes meet the standards of Subpart D; or
- 2) Persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition; or
- 3) Persons have been granted an extension to the effective date of a prohibition pursuant to Section 728.105, with respect to those wastes and units covered by the extension.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.131 Waste Specific Prohibitions -- Dioxin-Containing Wastes

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 as USEPA Hazardous Waste Numbers F020, F021, F022, F023, F026, F027 and F028 are prohibited from land disposal, unless the following condition applies: The dioxin-containing waste is contaminated soil and debris resulting from a CERCLA response or a RCRA corrective action.

- b) The requirements of subsection (a) do not apply if:

- 1) The wastes meet the standards of Subpart D; or
- 2) Persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition; or
- 3) Persons have been granted an extension from the effective date of a prohibition pursuant to Section 728.105, with respect to those wastes and units covered by the extension.

- b) Effective November 8, 1990, USEPA Hazardous Waste Numbers F020, F021, F022, F023, F026, F027 and F028, dioxin-containing waste which is contaminated soil and debris resulting from a CERCLA response or a RCRA corrective action listed in subsection (a) are prohibited from land disposal.

- c) Between November 8, 1986, and November 8, 1988, until November 8, 1990, wastes included in subsection (a-b) may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements specified in 40 CFR 268.5(h)(2)-(1987)-2, incorporated by reference in Section 728.105, and all other applicable requirements of 35 Ill. Adm. Code 724 and 725.

- d) The requirements of subsections (a) and (b) do not apply if:

- 1) The wastes meet the standards of Subpart D; or,
- 2) Persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition; or
- 3) Persons have been granted an extension from the effective date of a prohibition pursuant to Section 728.105, with respect to those wastes and units covered by the extension.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.132 Waste Specific Prohibitions -- California List Wastes

- a) The following hazardous wastes are prohibited from land disposal (except in injection wells):

- 1) Liquid hazardous wastes having a pH less than or equal to two (2.0);

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- 2) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm;
- 3) Liquid hazardous wastes that are primarily water and contain halogenated organic compounds (HOCs) in total concentration greater than or equal to 1000 mg/l and less than 10,000 mg/l HOCs.

d) The requirements of subsection (a) and (e) do not apply until:

- 1) November 8, ~~1988-1989~~, where the wastes are contaminated soil or debris not resulting from a CERCLA response action ~~-taken under Section 104 or 106 of CERCLA-~~ or from RCRA corrective action, as defined in Section 728.102. Until July 8, 1989, the wastes may be disposed of in a landfill or surface impoundment only if such disposal is in compliance with the requirements in 40 CFR 268.5(h)(2), incorporated by reference in Section 728.105.

- 2) November 8, 1990, where the wastes are contaminated soil or debris resulting from a CERCLA response action or RCRA corrective action. Until November 8, 1990, the wastes may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2), incorporated by reference in Section 728.105.
- e) ~~Effective July 8, 1989;~~ ~~The following hazardous wastes are prohibited from land disposal (subject to any regulation that may be promulgated with respect to disposal in injection wells):~~

- 1) Liquid hazardous wastes that contain HOCs in total concentration greater than or equal to 1000 mg/l and are not prohibited under subsection (a)(3); and
- 2) Nonliquid hazardous wastes containing HOCs in total concentration greater than or equal to 1000 mg/kg and which are not wastes described in subsection (d).
- f) ~~Waste July 8, 1989;~~ ~~The wastes described in subsections (e)(1) and (e)(2) may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements specified in 40 CFR 268.5(h)(2), incorporated by reference in Section 728.105.~~
- g) The requirements of subsections (a) (d) and (e) do not apply if:
- 1) Persons have been granted an adjusted standard from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition

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- 2) (except for liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm which are not eligible for exemptions); or,
- 2) Persons have been granted an extension to the effective date of a prohibition pursuant to Section 728.105, with respect to those wastes covered by the extension; or

- 3) The wastes meet the applicable standards specified in Subpart D or, where treatment standards are not specified, the wastes are in compliance with the applicable prohibitions set forth in this Section or Section 728.139.

- h) The prohibitions and effective dates specified in subsections (a)(3), (d) and (e) do not apply where the waste is subject to a Subpart C prohibition and effective date for a specified HOC (such as a hazardous waste chlorinated solvent, see e.g. Section 728.130(a)).

- i) To determine whether or not a waste is a liquid under subsections (a) or (e) or under Section 728.139, the following test must be used: Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes", incorporated by reference in 35 Ill. Adm. Code 720.111.

- j) Except as otherwise provided in this subsection, the waste analysis and recordkeeping requirements of Section 728.107 are applicable to wastes prohibited under this Part or Section 728.139:

- 1) The initial generator of a liquid hazardous waste ~~must~~ shall test the waste (not an extract or filtrate) in accordance with the procedures specified in 35 Ill. Adm. Code 721.122(a)(1), or use knowledge of the waste, to determine if the waste has a pH less than or equal to two (2.0). If the liquid waste has a pH less than or equal to two (2.0), it is restricted from land disposal and all requirements of this Part are applicable, except as otherwise specified in this Section.
- 2) The initial generator of either a liquid hazardous waste containing PCBs or a liquid or nonliquid hazardous waste containing HOCs ~~must~~ shall test the waste (not an extract or filtrate), or use knowledge of the waste, to determine whether the concentration levels in the waste equal or exceed the prohibition levels specified in this Section. If the concentration of PCBs or HOCs in the waste is greater than or equal to the prohibition levels specified in this Section, the waste is restricted from land disposal and all requirements of this Part are applicable, except as otherwise specified in this Section.

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(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.133 Waste Specific Prohibitions -- First Third Wastes

- a) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous wastes numbers listed below are prohibited from land disposal (except in an injection well). Until August 7, 1990, K061 wastes containing 15% zinc or greater are prohibited from land disposal pursuant to the treatment standards specified in Section 728.141 applicable to K061 wastes that contain less than 15% zinc.

F006 (nonwastewater)
K001 (nonwastewater)
K004 (nonwastewater)
K008 (nonwastewater)
K015 (nonwastewater)
K016 (nonwastewater)
K018 (nonwastewater)
K019 (nonwastewater)
K020 (nonwastewater)
K021 (nonwastewater)
K022 (nonwastewater)
K024 (nonwastewater)
K025 (nonwastewater)
K030 (nonwastewater)
K036 (nonwastewater)
K037 (nonwastewater)
K044 (nonwastewater)
K045 (nonexplosive)
K046 (nonwastewater)
K047 (nonwastewater)
K060 (nonwastewater)
K061 (nonwastewater containing less than 15% zinc)
K062 (non CaSO₄)
K069 (nonwastewater)
K083 (nonwastewater)
K086 (solvent washes),
K087 (nonwastewater)
K099 (nonwastewater)
K100 (nonwastewater)
K101 (nonwastewater)
K102 (nonwastewater)
K103 (nonwastewater)
K104 (nonwastewater)

- b) Effective August 8, 1990, the wastes specified in 35 Ill. Adm. Code 721.132 as USEPA Hazardous Waste Nos. K048, K049, K050, K051, K052,

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K061 (containing 15% zinc or greater), and K071 are prohibited from land disposal.

- c) Effective August 8, 1990, the wastes specified in Section 728.110 having a treatment standard in Subpart D based on incineration and which are contaminated soil and debris are prohibited from land disposal.

- d) Until August 8, 1990, wastes included in subsection (b) and (c) may be disposed of in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2), incorporated by reference in Section 728.105.

- e) The requirements of subsection (a), (b), (c) and (d) do not apply if:

- 1) The wastes meet the applicable standards specified in Subpart D; or

- 2) Persons have been granted an adjusted standard pursuant to Section 728.106, with respect to those wastes and units covered by the petition; or

- 3) Persons have been granted an extension to the effective date of a prohibition pursuant to Section 728.105, with respect to those wastes covered by the extension.

- f) Until May 8, 1990, the wastes specified in Section 728.110 for which treatment standards under Subpart D are not applicable, including those wastes which are subject to the statutory prohibitions of Section 728.139 or codified prohibitions under Section 728.132, but not including wastes subject to a treatment standard under Section 728.142, are prohibited from disposal in a landfill or surface impoundment unless the wastes are the subject of a valid demonstration and certification pursuant to Section 728.108.

- g) To determine whether a hazardous waste listed in Section 728.110 exceeds the applicable treatment standards specified in Sections 728.131 and 728.143, the initial generator shall test a representative sample of the waste extract of the entire waste depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste. If the waste contains constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal and all requirements of this Part are applicable except as otherwise specified.

(Source: Added at 13 Ill. Reg. 18403 effective Nov. 13, 1989)

SUBPART D: TREATMENT STANDARDS

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Section 728.140 Applicability of Treatment Standards

- a) A restricted waste identified in ~~this Subpart~~-Section 728.141 may be land disposed without further treatment only if an extract of the waste or of the treatment residue of the waste developed using the test method Appendix A does not exceed the value shown in Table A ~~of Section 728.141~~ for any hazardous constituent listed in Table A for that waste. ~~A restricted waste for which a treatment technology is specified under Section 728.142(a) may be land disposed after it is treated using that specified technology or an equivalent treatment method approved under the procedures set forth in Section 728.142(b).~~

- b) A restricted waste for which a treatment technology is specified under Section 728.142(a) may be land disposed after it is treated using that specified technology or an equivalent treatment method approved by the Agency under the procedures set forth in Section 728.142(b).

- c) A restricted waste identified in Section 728.143 may be land disposed only if the constituent concentrations in the waste or treatment residue of the waste do not exceed the value shown in Table B for any hazardous constituent listed in Table B for that waste.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.142 Treatment Standards expressed as Specified Technologies

- a) The following wastes must be treated using the identified technology or technologies, or an equivalent method approved under subsection (b).

- 1) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with technical requirements at 40 CFR 761.70, incorporated by reference in 35 Ill. Adm. Code 720.111, or burned in high efficiency boilers in accordance with the technical requirements of 40 CFR 761.60. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70. Thermal treatment in accordance with this Section must be in compliance with applicable regulations in 35 Ill. Adm. Code 724, 725 and 726.

- 2) Nonliquid hazardous wastes containing halogenated organic compounds (HOCs) in total concentrations greater than or equal to 1000 mg/kg and liquid HOC-containing wastes that are

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prohibited under Section 728.132(e)(1) must be incinerated in accordance with the requirements of 35 Ill. Adm. Code 724.Subpart 0 or 35 Ill. Adm. Code 725.Subpart 0, or in boilers or industrial furnaces burning in accordance with applicable regulatory standards. These treatment standards do not apply where the waste is subject to a Subpart C treatment standard for a specific HOC (such as a hazardous waste chlorinated solvent for which a treatment standard is established under Section 728.141(a)).

- b) Any person may submit an application to the Agency demonstrating that an alternative treatment method can achieve a level of performance equivalent to that achievable by methods specified in subsection (a). The applicant shall submit information demonstrating that the applicant's treatment method is in compliance with federal and state requirements, including this Part, 35 Ill. Adm. Code 709, 724, 725, 726 and 729 and Sections 22.6 and 39(h) of the Environmental Protection Act (11. Rev. Stat. 1985, ch. 111 1/2, pars. 1022.6 and 1039(h)), and is protective of human health or the environment. On the basis of such information and any other available information, the Agency shall approve the use of the alternative treatment method if the Agency finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subsection (a). Any approval must be stated in writing and may contain such provisions and conditions as the Agency determines to be appropriate. The person to whom such certification is issued shall comply with all limitations contained in such determination.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.143 Treatment Standards expressed as Waste Concentrations

- a) Table B identifies the restricted wastes and concentrations of their associated hazardous constituents which must not be exceeded by their waste or treatment residual (not an extract of such waste or treatment residual) for the allowable land disposal of such waste or residual.

- b) When wastes with different treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

(Source: Added at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728.144 Adjustment of Treatment Standard

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- a) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to the specified level, or where the treatment technology is not appropriate to the waste, the generator or treatment facility may petition the Board for an adjusted treatment standard. As justification, the petitioner shall demonstrate that, because the physical or chemical properties of the waste differ significantly from wastes analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods.

- b) Each petition must be submitted in accordance with the procedures in 35 Ill. Adm. Code 106.

- c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- d) After receiving a petition for adjustment of a treatment standard, the Board may request any additional information or samples which are necessary to evaluate the petition.

- e) The Board will give public notice and provide an opportunity for public comment, as provided in 35 Ill. Adm. Code 106. The final decision on an adjusted treatment standard will be published in the Environmental Register.

- f) A generator, treatment facility or disposal facility that is managing a waste covered by an adjusted treatment standard shall comply with the waste analysis requirements for restricted wastes found under Section 728.107.

- g) During the petition review process, the applicant is required to comply with all restrictions on land disposal under this Part once the effective date for the waste has been reached.

- h) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste generated under conditions specific to only one site cannot be treated to the specified level, or where treatment technology is not appropriate to the waste, the generator or treatment facility may petition the Board for a site-

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specific adjusted standard. The petitioner shall demonstrate that, because the physical or chemical properties of the waste differs significantly from the waste analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods.

- 1) Each petition for a site-specific adjusted standard must include the information in 40 CFR 260.20(b)(1) through (b)(4), incorporated by reference in 35 Ill. Adm. Code 720.111.

- 2) After receiving a petition for a site-specific adjusted standard, the Board may request any additional information or samples which the Board determines are necessary to evaluate the application.

- 3) A generator, treatment facility or disposal facility which is managing a waste covered by a site-specific adjusted standard from a treatment standard shall comply with the waste analysis requirements for restricted wastes in Section 728.107.

- 4) During the petition review process, the petitioner for a site-specific adjusted standard shall comply with all restrictions on land disposal under this Part once the effective date for the waste has been reached.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989.)

SUBPART E: PROHIBITIONS ON STORAGE

Section 728.150 Prohibitions on Storage of Restricted Wastes

- a) Except as provided in this Section, the storage of hazardous wastes restricted from land disposal under Subpart C is prohibited, unless the following conditions are met:

- 1) A generator stores such wastes in tanks or containers on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal and the generator complies with the requirements in 35 Ill. Adm. Code 722.134. (A generator who is in existence on the effective date of a regulation under this Part and who must store hazardous wastes for longer than 90 days due to the regulations under this Part becomes an owner or operator of a storage facility and must obtain a RCRA permit, as required by 35 Ill. Adm. Code 703. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under 35 Ill. Adm. Code 703.153).

- 2) An owner or operator of a hazardous waste treatment, storage or

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disposal facility stores such wastes in tanks or containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal and

A) Each container is clearly marked to identify its contents and the date each period of accumulation begins;

B) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received and the date each period of accumulation begins, or such information is recorded and maintained in the operating record at the facility. Regardless of whether the tank itself is marked, the owner and operator shall comply with the operating record requirements of 35 Ill. Adm. Code 724.173 or 725.173.

3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

b) An owner or operator of a treatment, storage or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.

c) An owner or operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.

d) The prohibition in subsection (a) does not apply to the wastes which are the subject of an approved petition under Section 728.106, a nationwide variance contained in Subpart C₂ - or an approved case-by-case extension under Section 728.105 or a valid certification under Section 728.108.

e) The prohibition in subsection (a) does not apply to hazardous wastes that meet the treatment standards specified under Sections 728.141, 728.142 and 728.143 or the adjusted treatment standards specified under Section 728.144, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in Section 728.132 or 728.139.

f) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of 40 CFR 761.65(b), incorporated by reference in 35

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111. Adm. Code 720.111, and must be removed from storage and treated or disposed as required by the Part within one year of the date when such wastes are first placed into storage. The provisions of subsection (c) do not apply to such PCB wastes prohibited under Section 728.132.

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Table A Constituent Concentrations in Waste Extract (COWE)

F001 -- F005 Spent Solvents	Concentration (in mg/L)	
	Wastewaters containing solvent	All other spent solvent wastes

Acetone	0.05	0.59
n-Butyl alcohol	5.0	5.0
Carbon disulfide	1.05	4.81
Carbon tetrachloride	0.05	0.96
Chlorobenzene	0.15	0.05
Cresols (and cresylic acid)	2.82	0.75
Cyclohexanone	0.125	0.75
1,2-Dichlorobenzene	0.65	0.125
Ethyl acetate	0.05	0.75
Ethylbenzene	0.05	0.053
Ethyl ether	0.05	0.75
Isobutanol	5.0	5.0
Methanol	0.25	0.75
Methylene chloride	0.20	0.96
-Methylene chloride (from the pharmaceutical industry)	12.7	0.96
Methyl ethyl ketone	0.05	0.75
Methyl isobutyl ketone	0.05	0.33
Nitrobenzene	0.66	0.125
Pyridine	1.12	0.33
Tetrachloroethylene	0.079	0.05
Toluene	1.12	0.33
1,1,1-Trichloroethane	1.05	0.41
1,1,2-Trichloro-1,2,2-trifluoroethane	1.05	0.96
Trichloroethylene	0.062	0.091
Trichlorofluoromethane	0.05	0.96
Xylene	0.05	0.15

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F006 nonwastewaters (see also Table B)

Concentration	
(in mg/L)	
Cadmium	0.066
Chromium (Total)	5.2
Lead	0.51
Nickel	0.32
Silver	0.072
Cyanides (Total)	Reserved

F020 -- F023 and F026 -- F028
Dioxin Containing Wastes

Concentration
(Maximum)

HxCDD -- A11 Hexachlorodibenzo-p-dioxins	1 ppb
HxCDF -- A11 Hexachlorodibenzofurans	1 ppb
PecDD -- A11 Pentachlorodibenzo-p-dioxins	1 ppb
PecDF -- A11 Pentachlorodibenzofurans	1 ppb
TCDD -- A11 Tetrachlorodibenzo-p-dioxins	1 ppb
TCDF -- A11 Tetrachlorodibenzofurans	1 ppb
2,4,5-Trichlorophenol	0.05 ppm
2,4,6-Trichlorophenol	0.05 ppm
2,3,4,6-Tetrachlorophenol	0.10 ppm
Pentachlorophenol	0.01 ppm

K001 nonwastewaters (see also Table B)

Concentration	
(in mg/L)	
Lead	0.51

K022 nonwastewaters (see also Table B)

Concentration	
(in mg/L)	
Chromium (Total)	5.2
Nickel	0.32

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K046 nonwastewaters (Nonreactive Subcategory)

Concentration	
(in mg/L)	
Lead	0.18

K048, K049, K050, K051 and K052 nonwastewaters (see also Table B)

Concentration	
(in mg/L)	
Arsenic	0.004
Chromium (Total)	1.7
Nickel	0.048
Selenium	0.025

K061 nonwastewaters (Low Zinc Subcategory--less than 15% total zinc)

Concentration	
(in mg/L)	
Cadmium	0.14
Chromium (Total)	5.2
Lead	0.24
Nickel	0.32

K061 nonwastewaters (High Zinc Subcategory--15% or greater total zinc) effective until 8/8/90

Concentration	
(in mg/L)	
Cadmium	0.14
Chromium (Total)	5.2
Lead	0.24
Nickel	0.32

K062 nonwastewaters

Concentration	
(in mg/L)	
Chromium (Total)	0.094
Lead	0.37

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K071 nonwastewaters

Mercury Concentration
(in mg/L)
0.025

K086 nonwastewaters (Solvent Washes Subcategory) see also Table B

Chromium (Total) Concentration
(in mg/L)
0.094
Lead 0.37

K087 nonwastewaters (see also Table B)

Lead Concentration
(in mg/L)
0.51

K101 and K102 nonwastewaters (Low Arsenic Subcategory-less than 1% Total Arsenic) (see also Table B)

Cadmium Concentration
Chromium (Total) (in mg/L)
0.066
Lead 5.2
0.51
Nickel 0.32

(Source: Amended at 13 Ill. Reg. 18403, effective Nov. 13, 1989)

Section 728. Table B Constituent Concentrations in Waste (CCW)F001, F002, F003, F004 and F005 wastewaters (Pharmaceutical Industry)

Methylene chloride Concentration
(in mg/L)
0.44

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F006 nonwastewaters (see also Table A)

Cyanides (Total) Concentration
(in mg/kg)
Reserved

K001 nonwastewaters (see also Table A)

Napthalene Concentration
Pentachlorophenol (in mg/kg)
8.0
37.
Phenanthrene 8.0
7.3
Pyrene 0.14
Toluene 0.16
Xylenes

K001 wastewaters

Concentration
(in mg/L)

Napthalene 0.15
Pentachlorophenol 0.88
Phenanthrene 0.15
Pyrene 0.14
Toluene 0.14
Xylenes 0.16
Lead 0.037

K015 wastewaters

Concentration
(in mg/L)

Anthracene 1.0
Benzal chloride 0.28
Benzo (b or k) fluoranthene 0.29
Phenanthrene 0.27
Toluene 0.15
Chromium (Total) 0.32
Nickel 0.44

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K016 nonwastewaters

Concentration
(in mg/kg)

Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Tetrachloroethene

28.
5.6
5.6
28.
6.0

K016 wastewaters

Concentration
(in mg/L)

Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Tetrachloroethene

0.033
0.007
0.007
0.033
0.007

K018 nonwastewaters

Concentration
(in mg/kg)

Chloroethane
1,1-Dichloroethane
1,2-Dichloroethane
Hexachlorobenzene
Hexachlorobutadiene
Hexachloroethane
Pentachloroethane
1,1,1-Trichloroethane

6.0
6.0
6.0
28.
28.
5.6
5.6
6.0

K018 wastewaters

Concentration
(in mg/L)

Chloroethane
Chloromethane
1,1-Dichloroethane
1,2-Dichloroethane
Hexachlorobenzene
Hexachlorobutadiene
Pentachloroethane

0.007
0.007
0.007
0.007
0.033
0.007
0.007

1,1,1-Trichloroethane

0.007

K019 nonwastewaters

Concentration
(in mg/kg)

Bis(2-chloroethyl) ether
Chlorobenzene
Chloroform
1,2-Dichloroethane
Hexachloroethane
Naphthalene
Phenanthrene
Tetrachloroethene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane

5.6
6.0
6.0
6.0
28.
5.6
5.6
6.0
19.
6.0

K019 wastewaters

Concentration
(in mg/L)

Bis(2-chloroethyl) ether
Chlorobenzene
Chloroform
p-Dichlorobenzene
1,2-Dichloroethane
Fluorene
Hexachloroethane
Naphthalene
Phenanthrene
1,2,4,5-Tetrachlorobenzene
Tetrachloroethene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane

0.007
0.006
0.007
0.008
0.007
0.007
0.033
0.007
0.007
0.017
0.007
0.023
0.007

K020 nonwastewaters

Concentration
(in mg/kg)

1,2-Dichloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethene

6.0
5.6
6.0

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K020 wastewaters

1,2-Dichloroethane	Concentration (in mg/L)
1,1,2,2-tetrachloroethane	0.007
Tetrachloroethene	0.007

K022 nonwastewaters (see also Table A)

Acetophenone	Concentration (in mg/kg)
Sum of Diphenylamine and Diphenylnitrosamine	19.
Phenol	13.
Toluene	12.
	0.034

K024 nonwastewaters

Phthalic acid	Concentration (in mg/kg)
	28.

K024 wastewaters

Phthalic acid	Concentration (in mg/L)
	0.54

K030 nonwastewaters

Hexachlorobutadiene	Concentration (in mg/kg)
Hexachloroethane	5.6
Hexachloropropene	28.
Pentachlorobenzene	19.
Pentachloroethane	28.
1,2,4,5-tetrachlorobenzene	5.6
Tetrachloroethene	14.
1,2,4-Trichlorobenzene	6.0
	19.

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K030 wastewaters

o-Dichlorobenzene	Concentration (in mg/L)
p-Dichlorobenzene	0.008
Hexachlorobutadiene	0.008
Hexachloroethane	0.007
Pentachloroethane	0.033
1,2,4,5-tetrachlorobenzene	0.007
Tetrachloroethene	0.017
1,2,4-Trichlorobenzene	0.007
	0.023

K037 nonwastewaters

Disulfoton	Concentration (in mg/kg)
Toluene	0.1
	28.

K037 wastewaters

Disulfoton	Concentration (in mg/L)
Toluene	0.003
	0.028

K048 nonwastewaters (see also Table A)

Benzene	Concentration (in mg/kg)
Benzo(a)pyrene	9.5
Bis(2-ethylhexyl)phthalate	0.84
Chrysene	37.
Di-n-butyl phthalate	2.2
Ethylbenzene	4.2
Naphthalene	67.
Phenanthrene	Reserved
Phenol	7.7
Pyrene	2.7
Toluene	2.0
Xylenes	9.5
Cyanides (Total)	Reserved
	1.8

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K048 wastewaters

<u>Concentration</u> <u>(in mg/L)</u>	
Benzene	0.011
Benzo(a)pyrene	0.047
Bis(2-ethylhexyl)phthalate	0.043
Chrysene	0.043
Di-n-butyl phthalate	0.060
Ethylbenzene	0.011
Fluorene	0.050
Naphthalene	0.033
Phenanthrene	0.039
Phenol	0.047
Pyrene	0.045
Toluene	0.011
Xylenes	0.011
Chromium (Total)	0.20
Lead	0.37

K049 nonwastewaters (see also Table A)

<u>Concentration</u> <u>(in mg/kg)</u>	
Anthracene	6.2
Benzene	9.5
Benzo(a)pyrene	0.84
Bis(2-ethylhexyl)phthalate	37.
Chrysene	2.2
Ethylbenzene	67.
Naphthalene	(Reserved)
Phenanthrene	7.7
Phenol	2.7
Pyrene	2.0
Toluene	9.5
Xylenes	Reserved
Cyanides (Total)	1.8

K049 wastewaters

<u>Concentration</u> <u>(in mg/L)</u>	
Anthracene	0.039
Benzene	0.011
Benzo(a)pyrene	0.047

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Bis(2-ethylhexyl)phthalate	0.043
Carbon disulfide	0.011
Chrysene	0.043
2,4-Dimethylphenol	0.033
Ethylbenzene	0.011
Naphthalene	0.033
Phenanthrene	0.039
Phenol	0.047
Pyrene	0.045
Toluene	0.011
Xylenes	0.011
Chromium (Total)	0.20
Lead	0.037

K050 nonwastewaters (see also Table A)

<u>Concentration</u> <u>(in mg/kg)</u>	
Benzo(a)pyrene	0.84
Phenol	2.7
Cyanides (Total)	1.8

K050 wastewaters

<u>Concentration</u> <u>(in mg/L)</u>	
Benzo(a)pyrene	0.047
Phenol	0.047
Chromium (Total)	0.20
Lead	0.037

K051 nonwastewaters (see also Table A)

<u>Concentration</u> <u>(in mg/kg)</u>	
Anthracene	6.2
Benzene	9.5
Benzo(a)anthracene	1.4
Benzo(a)pyrene	0.84
Bis(2-ethylhexyl)phthalate	37.
Chrysene	2.2
Di-n-butyl phthalate	4.2
Ethylbenzene	67.
Naphthalene	Reserved
Phenanthrene	7.7

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Phenol
Pyrene
Toluene
Xylenes
Cyanides (Total)

2.7
2.0
9.5
Reserved
1.8

K051 wastewaters

Acenaphthene
Anthracene
Benzene
Benzo(a)anthracene
Benzo(a)pyrene
Bis(2-ethylhexyl) phthalate
Chrysene
Di-n-butyl phthalate
Ethylbenzene
Fluorene
Naphthalene
Phenanthrene
Phenol
Pyrene
Toluene
Xylenes
Chromium (Total)
Lead

Concentration
(in mg/L)

0.050
0.039
0.011
0.043
0.047
0.043
0.043
0.060
0.011
0.050
0.033
0.039
0.047
0.045
0.011
0.011
0.20
0.037

K052 nonwastewaters (see also Table A)

Benzene
Benzo(a)pyrene
o-Cresol
p-Cresol
Ethylbenzene
Naphthalene
Phenanthrene
Phenol
Toluene
Xylenes
Cyanides (Total)

Concentration
(in mg/kg)

9.5
0.84
2.2
0.90
67.
Reserved
7.7
2.7
9.5
Reserved
1.8

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K052 wastewaters

Benzene
Benzo(a)pyrene
o-Cresol
p-Cresol
2,4-Dimethylphenol
Ethylbenzene
Naphthalene
Phenanthrene
Phenol
Toluene
Xylenes
Chromium (Total)
Lead

Concentration
(in mg/L)

0.011
0.047
0.011
0.011
0.033
0.011
0.033
0.039
0.047
0.011
0.011
0.20
0.037

K062 wastewaters

Chromium (Total)
Lead
Nickel

Concentration
(in mg/L)

0.32
0.04
0.44

K071 wastewaters

Mercury

Concentration
(in mg/kg)

0.030

K086 nonwastewaters-Solvent Washes Subcategory (see also Table A)

Acetone
bis(2-ethylhexyl) phthalate
n-Butyl alcohol
Cyclohexanone
1,2-Dichlorobenzene
Ethyl acetate
Ethyl benzene
Methanol
Methylene chloride

Concentration
(in mg/kg)

0.37
0.49
0.37
0.49
0.49
0.37
0.031
0.37
0.037

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Methyl ethyl ketone
Methyl isobutyl ketone
Naphthalene
Nitrobenzene
Toluene
1,1,1-Trichloroethane
Trichloroethylene
Xylenes

0.37
0.37
0.49
0.49
0.031
0.044
0.031
0.015

K086 wastewaters-Solvent Washes Subcategory

Acetone
bis(2-ethylhexyl)phthalate
n-Butyl alcohol
Cyclohexanone
1,2-Dichlorobenzene
Ethyl acetate
Ethyl benzene
Methanol
Methylene chloride
Methyl ethyl ketone
Methyl isobutyl ketone
Naphthalene
Nitrobenzene
Toluene
1,1,1-Trichloroethane
Trichloroethylene
Xylenes
Chromium (Total)
Lead

Concentration
(in mg/L)
0.015
0.044
0.031
0.022
0.044
0.031
0.015
0.031
0.031
0.031
0.044
0.044
0.029
0.031
0.029
0.015
0.32
0.037

K087 nonwastewaters (see also Table A)

Acenaphthalene
Benzene
Chrysene
Fluoranthene
Indeno(1,2,3-cd)pyrene
Naphthalene
Phenanthrene
Toluene
Xylenes

Concentration
(in mg/kg)
3.4
3.4
3.4
3.4
3.4
3.4
3.4
0.65
0.070

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K087 wastewaters

Acenaphthalene
Benzene
Chrysene
Fluoranthene
Indeno(1,2,3-cd)pyrene
Naphthalene
Phenanthrene
Toluene
Xylenes
Lead

Concentration
(in mg/L)
0.028
0.014
0.028
0.028
0.028
0.028
0.008
0.014
0.037

K099 nonwastewaters

2,4-Dichlorophenoxyacetic acid
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofurans

Concentration
(in mg/kg)
1.0
0.001
0.001
0.001
0.001
0.001
0.001

K099 wastewaters

2,4-Dichlorophenoxyacetic acid
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofurans

Concentration
(in mg/L)
1.0
0.001
0.001
0.001
0.001
0.001
0.001

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K101 nonwastewaters (Low Arsenic Subcategory--less than 1% total arsenic) (see also Table A)

ortho-Nitroaniline
Concentration
(in mg/kg)
14.

K101 wastewaters

ortho-Nitroaniline
Concentration
(in mg/L)
0.27
2.0
0.24
0.11
0.027

K102 nonwastewaters (Low Arsenic Subcategory--less than 1% total arsenic) (see also Table A)

ortho-Nitrophenol
Concentration
(in mg/kg)
13.

K102 wastewaters

ortho-Nitrophenol
Concentration
(in mg/L)
0.028
2.0
0.24
0.11
0.027

K103 nonwastewaters

Aniline
Benzene
2,4-Dinitrophenol
Nitrobenzene
Phenol
Concentration
(in mg/kg)
5.6
6.0
5.6
5.6
5.6

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K103 wastewaters

Aniline
Benzene
2,4-Dinitrophenol
Nitrobenzene
Phenol
Concentration
(in mg/L)
4.5
0.15
0.61
0.073
1.4

K104 nonwastewaters

Aniline
Benzene
2,4-Dinitrophenol
Nitrobenzene
Phenol
Cyanides (Total)
Concentration
(in mg/L)
5.6
6.0
5.6
5.6
5.6
1.8

K104 wastewaters

Aniline
Benzene
2,4-Dinitrophenol
Nitrobenzene
Phenol
Cyanides (Total)
Concentration
(in mg/L)
4.5
0.15
0.61
0.073
1.4
2.7

No Land Disposal for:

K004 Nonwastewaters
K008 Nonwastewaters
K015 Nonwastewaters
K021 Nonwastewaters
K025 Nonwastewaters
K036 Nonwastewaters
K044
K045
K047
K060 Nonwastewaters
(Based on No Generation)
(Based on No Generation)
(Based on No Ash)
(Based on No Generation)
(Based on No Generation)
(Based on No Generation)
(Based on Reactivity)
(Based on Reactivity)
(Based on Reactivity)
(Based on No Generation)

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K061 Nonwastewaters-High Zinc Subcategory
(greater than or equal to 15% total zinc)

(Based on Recycling):
effective 8/8/90

K069 Nonwastewaters-Non-Calcium Sulfate Subcategory

(Based on Recycling)

K083 Nonwastewaters-No Ash Subcategory (less
than 0.01% total ash)

(Based on No Ash)

K100 Nonwastewaters

(Based on No Generation)

(Source: Added at 13 Ill. Reg. 18403 effective Nov. 13, 1989)

Appendix A Toxicity Characteristic Leaching Procedure (TCLP)

The Board incorporates by reference 40 CFR 268, Appendix I-1 as adopted at 51 Fed. Reg. 49636s November 7, 1986, and amended at 52 Fed. Reg. 21910s June 4, 1987- (1988). This incorporation includes no future editions or amendments.

(Source: Amended at 13 Ill. Reg. 18403 effective Nov. 13, 1989)

Appendix B Treatment Standards (As concentrations in the Treatment Residual Extract)

The Board incorporates by reference 40 CFR 268, Appendix II-1 as adopted at 51 Fed. Reg. 49636s November 7, 1986- (1988). This incorporation includes no future editions or amendments.

(Source: Amended at 13 Ill. Reg. 18403 effective Nov. 13, 1989)

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1) Heading of the Part: RCRA and UIC Permit Programs

2) Code Citation: 35 Ill. Adm. Code 702

3) Section Numbers:

Adopted Action:

702.104, 702.110, 702.152, 702.160, 702.181, 702.182
702.183, 702.184, 702.185, 702.186, 702.187
Amendments

4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1013, 1022.4 and 1027.

5) Effective Date of Amendment: November 13, 1989

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this amendment contain incorporations by reference? No.

8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.

9) Notice of Proposal Published in Illinois Register:

June 30, 1989; 13 Ill. Reg. 9835

10) Has JCAR issued a Statement of Objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposal and final version:

Minor editorial differences.

Most of the amendments to this Part concern deconsolidation of the RCRA/UIC procedures for permit modification. This is necessary for adoption of the new RCRA permit modification procedures in 35 Ill. Adm. Code 703. The Board proposed to repeal UIC and joint UIC/RCRA rules, with the intention of readopting the UIC portions in R89-2 in 35 Ill. Adm. Code 704. However, because of problems coordinating with that Docket, the Board has dropped the UIC aspects from this proposal. Provisions which are joint UIC/RCRA have been amended to become UIC only. These will be moved to 35 Ill. Adm. Code 704 in R89-2.

12) Have all the changes agreed upon by the Board and JCAR been made as

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indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

13) Will this amendment replace an emergency amendment currently in effect? No.

14) Are there any other amendments pending on this Part? No. However, a proposal to amend this Part in R89-2 is expected soon.

15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989, in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

Part 702 governs both RCRA and UIC permits. The permit modification procedures for RCRA permits have been moved to Part 703, and modified. New UIC permit modification procedures will be proposed in R89-2.

16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 1: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 702
RCRA AND UIC PERMIT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
702.101 Applicability
702.102 Purpose and Scope
702.103 Confidentiality
702.104 References
702.105 Rulemaking
702.106 Agency Criteria
702.107 Permit Appeals
702.108 Variances
702.109 Enforcement
702.110 Definitions

SUBPART B: PERMIT APPLICATIONS

Section
702.120 Permit Application
702.121 Who Applies
702.122 Completeness
702.123 Information Requirements
702.124 Recordkeeping
702.125 Continuation of Expiring Permits
702.126 Signatories to Permit Applications and Reports

SUBPART C: PERMIT CONDITIONS

Section
702.140 Conditions Applicable to all Permits
702.141 Duty to Comply
702.142 Duty to Reapply
702.143 Need to Halt or Reduce Activity not a Defense
702.144 Duty to Mitigate
702.145 Proper Operation and Maintenance
702.146 Permit Actions
702.147 Property Rights
702.148 Duty to Provide Information
702.149 Inspection and Entry
702.150 Monitoring and Records
702.151 Signatory Requirements
702.152 Reporting Requirements
702.160 Establishing Permit Conditions
702.161 Duration of Permits

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702.162 Schedules of Compliance
702.163 Alternative Schedules of Compliance
702.164 Recording and Reporting

SUBPART D: ISSUED PERMITS

Section
702.181 Effect of a Permit
702.182 Transfer
702.183 Modification
702.184 Causes for Modification
702.185 Facility Siting
702.186 Revocation
702.187 Minor Modifications

AUTHORITY: Implementing Section 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1013, 1022.4 and 1027).

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 111. Reg. 12479, effective as noted in 35 111. Adm. Code 700.106; amended in R82-19 at 53 PCB 131, 7 111. Reg. 14352, effective as noted in 35 111. Adm. Code 700.106; amended in R84-9 at 9 111. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 111. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 111. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 111. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 111. Reg. 13376, effective November 12, 1987; amended in R87-26 at 12 111. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 111. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 111. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 111. Reg. 18452, effective Nov. 13, 1989.

SUBPART A: GENERAL PROVISIONS

Section 702.104 References

See 35 111. Adm. Code 720.111.

a) When used in 35 111. Adm. Code 702, 703 and 704, the following publications are incorporated by reference:

Code of Federal Regulations

40 CFR 20, Appendix B, Table I, Column 2 (1987).

40 CFR 136 (1987).

40 CFR 142 (1987).

Notes: Available from the National Technical Information

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Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 467-4600.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846 (Second Edition, 1982 as amended by Update I (April, 1984) and Update II (April, 1985)) (Document Number PB 87-120-291)

b) This Section incorporates no later editions of amendments to-

BOARD NOTE: -See-Derived from 40 CFR 270.6 (-1987-1988).

(Source: Amended at 13 111. Reg. 18452, effective Nov. 13, 1989)

Section 702.110 Definitions

The following definitions apply to 35 111. Adm. Code 702, 703, 704 and 705. Terms not defined in this Section have the meaning given by the appropriate Act. When a defined term appears in a definition, the defined term is sometimes placed within quotation marks as an aid to readers. When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

"Administrator" means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit. For RCRA, application also includes the information required by the Agency under 35 111. Adm. Code 703.182 et seq. (contents of Part B of the RCRA application).

"Appropriate act and regulations" means the Resource Conservation and Recovery Act (RCRA); Safe Drinking Water Act (SDWA); or the "Environmental Protection Act," whichever is applicable; and applicable regulations promulgated under those statutes.

"Approved program or approved State" means a State or interstate program which has been approved or authorized by EPA under 40 CFR 271 (-1987-1988) (RCRA) or Section 1422 of the SDWA (UIC).

"Aquifer" (RCRA and UIC) means a geological "formation", group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" (UIC) means the area surrounding an injection well described according to the criteria set forth in 35 111. Adm. Code

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730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (1/4 of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

"Board" means the Illinois Pollution Control Board.

"Closure" (RCRA) means the act of securing a "Hazardous Waste Management Facility" pursuant to the requirements of 35 Ill. Adm. Code 724.

"Component" (RCRA) means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

"Contaminant" (UIC) means any physical, chemical, biological or radiological substance or matter in water.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) P.L. 92-500, as amended by P.L. 95-217, and P.L. 95-576; 33 U.S.C. 1251 et seq. (-1987-1988).

"Date of approval by USEPA of the Illinois UIC program" means February 1, 1984.

"Director" means the Director of the Illinois Environmental Protection Agency or the Director's designee.

"Disposal" (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking or placing of any "hazardous waste" into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

"Disposal Facility" (RCRA) means a facility or part of a facility at which "hazardous waste" is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure.

"Draft Permit" means a document prepared under 35 Ill. Adm. Code 705.141 indicating the Agency's tentative decision to issue, deny, modify, terminate or reissue a "permit". A notice of intent to deny a permit, as discussed in 35 Ill. Adm. Code 705.141 is a type of "draft permit". A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a "draft permit". A "proposed permit" is not a "draft permit".

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"Drilling Mud" (UIC) means a heavy suspension used in drilling an "injection well", introduced down the drill pipe and through the drill bit.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristics defined in 35 Ill. Adm. Code 721.122, or are listed in 35 Ill. Adm. Code 721. Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in 35 Ill. Adm. Code 720.110.

"Emergency Permit" means a RCRA or UIC "permit" issued in accordance with 35 Ill. Adm. Code 703.221 or 704.163, respectively.

"Environmental Protection Act" means the Environmental Protection Act (Ill. Rev. Stat. -1985-1987, ch. 111 1/2, par. 1001 et seq.).

"Environmental Protection Agency" ("EPA") means the United States Environmental Protection Agency.

"EPA" means the United States "Environmental Protection Agency".

"Exempted aquifer" (UIC) means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures in 35 Ill. Adm. Code 702.105, 704.104 and 704.123(b).

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and

Either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

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"Existing injection well" (UIC) means an "injection well" other than a "new injection well".

"Facility mailing list" (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163.

"Facility or activity" means any "HMM facility", UIC "injection well", or any other facility or activity (including land or appurtenances thereto) that is subject to regulations under the Illinois RCRA or UIC program.

"Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances. (See 35 Ill. Adm. Code 700.102 et seq.)

"Final authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management Program which has met the requirements of Section 3006(b) of RCRA and the applicable requirements of 40 CFR 271, Subpart A (1987). EPA granted initial final authorization on January 31, 1986.

"Fluid" (UIC) means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

"Formation" (UIC) means a body of rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" (UIC) means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as "drilling mud".

"Functionally equivalent component" (RCRA) means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" (RCRA and UIC) means a water below the land surface in a zone of saturation.

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"Hazardous Waste" (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility ("HMM facility")" means all contiguous land, and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of "hazardous waste". A facility may consist of several "treatment", "storage" or "disposal" operational units (for example, one or more landfills, surface impoundments or combinations of them).

"HMM facility" (RCRA) means "Hazardous Waste Management facility".

"Injection well" (RCRA and UIC) means a "well" into which "fluids" are being injected.

"Injection zone" (UIC) means a geological "formation", group of formations or part of a formation receiving fluids through a "well".

"In operation" (RCRA) means a facility which is treating, storing or disposing of "hazardous waste".

"Interim authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management program which has met the requirements of Section 3006(c) of RCRA and applicable requirements of 40 CFR 271 (1987). This happened on May 17, 1982.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the "appropriate Act and regulations".

"Major facility" means any RCRA or UIC "facility or activity" classified as such by the Regional Administrator or the Agency.

"Manifest" (RCRA and UIC) means the shipping document originated and signed by the "generator" which contains the information required by 35 Ill. Adm. Code 722, Subpart B.

"National Pollutant Discharge Elimination System" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309, Subpart A and 310. The term includes an "approved program".

"New HMM facility" (RCRA) means a "Hazardous Waste Management

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"facility" which began operation or for which construction commenced after November 19, 1980.

"New injection well" (IIC) means a "well" which began injection after the UIC program for the State of Illinois applicable to the well is approved.

"Off-site" (RCRA) means any site which is not "on-site".

"On-site" (RCRA) means on the same or geographically contiguous property which may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access, is also considered on-site property.

"Owner or operator" means the owner or operator of any "facility or activity" subject to regulation under the RCRA or UIC programs.

"Permit" means an authorization, license or equivalent control document issued to implement the requirements of this Part and 35 111. Adm. Code 703, 704 and 705. "Permit" includes RCRA "permit by rule" (35 111. Adm. Code 703.141), UIC area permit (35 111. Adm. Code 704.162) and RCRA or UIC "Emergency Permit" (35 111. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 111. Adm. Code 703.153 et seq.), UIC authorization by rule (35 111. Adm. Code 704. Subpart C), or any permit which has not yet been the subject of final Agency action, such as a "Draft Permit" or a "Proposed Permit."

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

"Phase I" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase I began on May 17, 1982.

"Phase II" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase II will commence whenever USEPA grants final authorization to the Agency to issue RCRA permits for any class of facility or unit. This occurred on January 31, 1986.

"Physical construction" (RCRA) means excavation, movement of earth,

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erection of forms or structures or similar activity to prepare an "HMM facility" to accept "hazardous waste".

"plugging" (UIC) means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.

"POTW" means "publicly owned treatment works".

"Project" (UIC) means a group of wells in a single operation.

"Publicly owned treatment works" ("POTW") is as defined in 35 111. Adm. Code 310.

"Radioactive waste" (UIC) means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR 20, Appendix B, Table II, Column 2, incorporated by reference in ~~Section 702.104-35~~ 111. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (P. L. 94-580, as amended by P. L. 95-609, P.L. 96-510, 42 U.S.C. 6901 et seq. (-1987-1988)).

"RCRA permit" means a permit required under Section 21(f) of the Environmental Protection Act.

"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or the Regional Administrator's designee.

"Schedule of compliance" means a schedule of remedial measures included in a "permit", including an enforceable sequence of interim requirements (for example, actions, operations or milestone events) leading to compliance with the "appropriate Act and regulations".

"SDWA" means the Safe Drinking Water Act (P-98- L. 93-523, as amended; 42 U.S.C. 300f et seq. (-1987-1988)).

"SIC Code" means codes pursuant to the Standard Industrial Classification Manual incorporated by reference in 35 111. Adm. Code 720.111.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sic Code" means codes pursuant to the Standard Industrial Classification Manual incorporated by reference in 35 111. Adm. Code

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"State" means the State of Illinois.

"State Director" means the Director of the Illinois Environmental Protection Agency.

"State/EPA Agreement" means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs including those under the RCRA and SDWA.

"Storage" (RCRA) means the holding of "hazardous waste" for a temporary period, at the end of which the hazardous waste is treated, disposed or stored elsewhere.

"Stratum (plural strata)" (UIC) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Total dissolved solids" (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136, incorporated by reference in ~~Section 702.104-35~~ 111. Adm. Code 720.111.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transporter" (RCRA) means a person engaged in the off-site transportation of "hazardous waste" by air, rail, highway or water.

"Treatment" (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical or biological character or composition of any "hazardous waste" so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

"UIC" means the Underground Injection Control program.

"Underground Injection" (UIC) means a "well injection".

"Underground source of drinking water" ("USDW") (RCRA and UIC) means an "aquifer" or its portion:

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Which:

Supplies any public water system; or

Contains a sufficient quantity of groundwater to supply a public water system; and

Currently supplies drinking water for human consumption; or

Contains less than 10,000 mg/l total dissolved solids; and

Which is not an "exempted aquifer".

"USDW" (RCRA and UIC) means an "underground source of drinking water".

"USEPA" means the United States Environmental Protection Agency.

"Wastewater treatment unit" means a device which:

Is part of a wastewater treatment facility which is subject to regulation under 35 Ill. Adm. Code 309. Subpart A or 310; and

Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, and

Meets the definition of tank or tank system in 35 Ill. Adm. Code 720.110.

"Well" (UIC) means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

"Well injection" (UIC) means the subsurface emplacement of "fluids" through a bored, drilled, or driven "well", or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

BOARD NOTE: ~~-See-Derived from 40 CFR 144.3 and 270.2 (-1987-1988) as amended at 53 Fed. Reg. 34086, September 2, 1988, and 53 Fed. Reg. 37934, September 28, 1988.~~

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(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

SUBPART C: PERMIT CONDITIONS

Section 702.152 Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For RCRA, see also 35 Ill. Adm. Code 703.247.
- c) Transfers. This permit is not transferable to any person except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)
- d) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.
- e) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than specified in Section 702.162.
- f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).
- g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under subsections (d), (e) and (f) at the time monitoring reports are submitted. The reports shall contain the information referenced in subsection (f).
- h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it shall promptly submit such facts or information.

BOARD NOTE: -See-Derived from 40 CFR 144.51(1) and 270.30(1) (1988).

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.160 Establishing Permit Conditions

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- a) In addition to conditions required in permits for both programs (Sections 702.140 through 702.152), the Agency shall establish conditions, as required on a case-by-case basis, in RCRA and UIC permits under Section 702.150 (monitoring and records), Section 702.161 (duration of permits), Section 702.162 (schedules of compliance), Section 702.163 (alternate schedules of compliance) and Section 702.164 (Recording and Reporting).

BOARD NOTE: -See-Derived from 40 CFR 144.52(a) (1987) and 270.32(a) (1988).

b) Additional conditions.

- 1) In addition to conditions required in all permits for a particular program (35 Ill. Adm. Code 703.241 et seq. for RCRA and 35 Ill. Adm. Code 704.181 et seq. for UIC), the Agency shall establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate Act and regulations.

BOARD NOTE: -See-Derived from 40 CFR 144.52(b) and 270.32(b) (1988).

- 2) An applicable requirement is a statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. 35 Ill. Adm. Code 705.184 (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the Agency where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.

BOARD NOTE: -See-Derived from 40 CFR 144.52(b) and 270.32(c) (1988).

- 3) New or reissued permits, and to the extent allowed under 35 Ill. Adm. Code 705.201 modified permits, shall incorporate each of the applicable requirements referenced in 35 Ill. Adm. Code 703.241 et seq. (RCRA) and 35 Ill. Adm. Code 704.182 through 704.191 (UIC).

BOARD NOTE: -See-Derived from 40 CFR 144.52(b) and 270.32(d) (1988).

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- c) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

BOARD NOTE: -See-Derived from 40 CFR 144.51 and 270.32(e) (1988).

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

SUBPART D: ISSUED PERMITS

Section 702.181 Effect of a Permit

- a) The existence of a RCRA or UIC permit shall not constitute a defense to a violation of the Environmental Protection Act or this Subtitle, except for development, modification or operation without a permit. -A-However, a permit may be modified, reissued or revoked during its term for cause as set forth in 35 Ill. Adm. Code 703.270 through 703.273 and Section 702.186 (RCRA) and Sections 702.183 through 702.186 (UIC).

- b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

- c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations, except as noted in subsection (a).

BOARD NOTE: -See-Derived from 144.35 (1988) and 40 CFR 270.4 - (1987) as amended at 52 Fed. Reg. 45787, December 1, 1987, - (1988), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.182 Transfer

This Section applies only to UIC permits. For RCRA, see 35 Ill. Adm. Code 703.260.

- a) Transfer by modification. Except as provided in subsection (b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under Section 702.183 through 702.185) or a minor modification made (under Section 702.187(d), to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act. The new owner or operator to whom the permit is transferred shall comply with all the terms and conditions specified in such permit.

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- b) Automatic transfers. As an alternative to transfers under subsection (a), any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if:

- 1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in subsection (b)(2);
- 2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of 35 Ill. Adm. Code 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under subsection (b); and
- 3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify the permit. A modification under this subsection may also be a minor modification under -See-Section 702.187. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b)(2).

BOARD NOTE: -See-Derived from 40 CFR 144.38 (1987) - and 270.40--.

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.183 Modification

This Section applies only to UIC permits. For RCRA, see 35 Ill. Adm. Code 703.270. When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (See -Sees-Sections 702.140 through 702.152), receives a request for modification or conducts a review of the permit file) it may determine whether or not one or more of the causes listed in -Sees-Sections 702.184 and 702.185 for modification exist. If cause exists, the Agency may modify the permit accordingly, subject to the limitations of -See-Section 702.185 and may request an updated application to modification are reopened. If cause does not exist the conditions subject to modification are reopened. When a permit is modified, only under -See-Section 702.183 through 702.185 or -See-Section 702.187 the Agency shall not modify the permit. If a permit modification satisfies the criteria in -See-Section 702.187 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: -See-Derived from 40 CFR - (122+15+)-144.39 (1987).

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(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)
Section 702.184 Causes for Modification

This Section applies only to UIC permits. For RCRA, see 35 Ill. Adm. Code 703.271 and 703.272.

- a) The following are cause for modification, but not reissuance, of permits; the following may be cause for reissuance as well as modification when the permittee requests or agrees:
- 1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - 2) Information. The Agency has received information. Permits other than for UIC Class III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance or test methods) and would have justified the application of different permit conditions at the time of issuance. For UIC area permits this cause shall include any information indicating that cumulative effects on the environment are unacceptable.
 - 3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits other than for UIC Class III wells may be modified during their terms for this cause only as follows:
 - A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.
 - B) The permittee may request modification when:
 - i) The permit condition requested to be modified was based on a promulgated -35 Ill. Adm. Code 702.703 or 720 through 728 (RCRA) or -35 Ill. Adm. Code 730 (UIC) regulation; and
 - ii) The Board has revised, withdrawn or modified that portion of the regulation on which the permit condition was based; and

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iii) A permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days after Illinois Register notice of the rulemaking on which the request is based.

- C) For judicial decisions, a court of competent jurisdiction has remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days of judicial remand.
- 4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
- 5) For RCRA only, the Agency may modify a permit:
- A) When modification of a closure plan is required under 35 Ill. Adm. Code 724.212(b) or 35 Ill. Adm. Code 724.218(b).
 - B) After the Agency receives the notification of expected closure under 35 Ill. Adm. Code 724.213, when the Agency determines that extension of the 90 or 180 day periods under 35 Ill. Adm. Code 724.213, modification of the 30-year post-closure period under 35 Ill. Adm. Code 724.217(a), contribution of security requirements under 35 Ill. Adm. Code 724.217(b) or permission to disturb the integrity of the containment system under 35 Ill. Adm. Code 724.217(c) are unwarranted.
 - C) When the permittee has filed a request under 35 Ill. Adm. Code 724.247(c) for a modification to the level of financial responsibility or when the Agency demonstrates financial responsibility of the permittee that an upward adjustment of the level of financial responsibility is required.
 - D) When the corrective action program specified in the permit under 35 Ill. Adm. Code 724.200 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.
 - E) To include a detection monitoring program meeting the requirements of 35 Ill. Adm. Code 724.198, when the owner or operator has been conducting a compliance monitoring

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program under 35 Ill. Adm. Code 724.199 or a corrective action program under 35 Ill. Adm. Code 724.200 and the compliance period ends before the end of the post-closure care period for the unit.

f) When a permit requires a compliance monitoring program under 35 Ill. Adm. Code 724.199, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

g) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

h) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

6) For RCRA only, notwithstanding any other provision of this Section, when a permit for a land disposal facility is reviewed under Section 702.161(d), the Agency shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this Part and 35 Ill. Adm. Code 703 and 720 through 726.

b) The following are causes to modify or, alternatively, reissue a permit: The Agency has received notification (as required in the permit, see Section 702.152(c)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Section 702.182(b)), but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

BOARD NOTE: -See-Derived from 40 CFR 144.39 (1988) - (1987) and 270.41 (1987) as amended at 52 Fed. Reg. 45,871 December 1, 1987.

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.185 Facility Siting

This Section applies only to UIC permits. For RCRA, see 35 Ill. Adm. Code 703.273. For RCRA and UIC, 5-Suitability of the facility location will not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance or unless required under the Environmental Protection Act. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the Environmental Protection Act.

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BOARD NOTE: -See-Derived from 40 CFR 144.39(c) (1988).

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.186 Revocation

The Board will revoke a permit during its term in accordance with Title VIII of the Environmental Protection Act -or deny a permit renewal application-for the following causes:

a) The permittee's violation of the Environmental Protection Act or regulations adopted thereunder;

b) Noncompliance by the permittee with any condition of the permit;

c) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or revocation.

BOARD NOTE: Derived from 40 CFR 270.43 and 144.40 (1988).

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

Section 702.187 Minor Modifications

This Section applies only to UIC permits. For RCRA, see 35 Ill. Adm. Code 703.280. Upon the consent of the permittee, the Agency may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of 35 Ill. Adm. Code 705. Any permit modification not processed as a minor modification under this Section must be made for cause and with a 35 Ill. Adm. Code 705 draft permit and public notice as required in Sections 702.183 through 702.185. Minor modifications may only:

a) Correct typographical errors;

b) Require more frequent monitoring or reporting by the permittee;

c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

d) Allow for a change in ownership or operational control of a facility

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where the Agency determines that no other change in the permit is necessary, provided:

- 1) For RCRA only: that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Agency. Changes in the ownership or operational control of a facility may be made only if the owner or operator submits a revised permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 35 Ill. Adm. Code 724.212(a) and (b) (financial requirements) until the new owner or operator has demonstrated to the Agency that the new owner or operator is complying with the requirements of that Subpart. The new owner or operator shall demonstrate compliance with the financial assurance requirements within six months after the date of the change in the ownership or operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with the financial assurance requirements, the Agency shall notify the old owner or operator in writing that the old owner or operator no longer needs to comply with 35 Ill. Adm. Code 724.212(a) and (b) as of the date of the demonstration.
- 2) For UIC only: that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Agency.
- e) For RCRA only:
 - 1) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan; or
 - 2) Minor changes to closure plans.
 - A) Change estimates of maximum inventory under 35 Ill. Adm. Code 724.212(a)(2);
 - B) Change estimates of expected year of closure or schedules for final closure under 35 Ill. Adm. Code 724.212(a)(4); or
 - C) Approve periods longer than 90 days or 180 days under 35 Ill. Adm. Code 724.213(a) and (b);
 - 3) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn; provided that the change is minor.

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- 4) Change the operating requirements set in the permit for conducting a trial burn; provided that the change is minor.
- 5) Grant one extension of the time period for determining operational readiness following completion of construction; for up to 720 hours operating time for treatment of hazardous waste.
- 6) Change the treatment program requirements for land treatment units under 35 Ill. Adm. Code 724.221 to improve treatment of hazardous constituents; provided that the change is minor.
- 7) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with 35 Ill. Adm. Code 703.230; provided that the change is minor.
- 8) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by 35 Ill. Adm. Code 724.212(a); provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.
- 9) Allow treatment of hazardous wastes not previously specified in the permit if:
 - A) The hazardous waste has been prohibited from one or more methods of land disposal under 35 Ill. Adm. Code 726.212(a) or 35 Ill. Adm. Code 726.130;
 - B) Treatment is in accordance with 35 Ill. Adm. Code 728.104 (if applicable); 35 Ill. Adm. Code 728.103 and;
 - i) Treatment is in accordance with standards established under 35 Ill. Adm. Code 728.141, 728.142 or 728.144; or
 - ii) Where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions set forth in 35 Ill. Adm. Code 728.132 or 728.139.
- 6) Handling and treatment of the restricted wastes will not present risks substantially different from those of wastes listed in the permit; and

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b) The Agency approves the minor modification. The Agency shall not approve changes to the permit except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. The Agency shall not approve changes in treatment processes or physical equipment under this subsection.

19) Allow permitted facilities to change their operations to treat or store hazardous wastes subject to land disposal restrictions imposed by 35 Ill. Adm. Code 728 provided such treatment or storage occurs in containers or tanks and the permittee:

A) Requests a major permit modification pursuant to Section 702.183 and 35 Ill. Adm. Code 705.128;

B) Demonstrates in the major permit modification request that the treatment or storage is necessary to comply with the land disposal restrictions of 35 Ill. Adm. Code 728; and

C) Ensure that the treatment or storage units comply with the applicable 35 Ill. Adm. Code 725 and 728 standards pending final administrative disposition of the major modification request. The authorization to make changes conferred in this paragraph shall terminate upon final administrative disposition of the permittee's major modification request under Section 702.183, or revocation of the permit under Section 702.186.

f) For UIC only:

1) Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Agency, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

2) Change construction requirements approved by the Agency pursuant to 35 Ill. Adm. Code 704.182 (establishing UIC permit conditions), provided that any such alteration shall comply with the requirements of this Part and 35 Ill. Adm. Code 704 and 730.

3) Amend a plugging and abandonment plan which has been updated under 35 Ill. Adm. Code 704.181(e).

BOARD NOTE: -See-Derived from 40 CFR 144.41 -and 279.42
-(1987)--s as amended at 52 Fed. Reg. 25760; July 8, 1987--.

(Source: Amended at 13 Ill. Reg. 18452, effective Nov. 13, 1989)

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- 1) Heading of the Part: RCRA Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 703
- 3) Section Numbers:
703.100, 703.183, 703.184
703.209
703.222, 703.223, 703.230
703.247, 703.260, 703.270, 703.271, 703.272, 703.273
703.280, 703.281, 703.282, 703.283, 703.App A
Adopted Action:
Amendments
New Section
Amendments
New Sections
- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.
- 5) Effective Date of Amendment: November 13, 1989
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? No.
- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.
- 9) Notice of Proposal Published in Illinois Register:
June 30, 1989; 13 Ill. Reg. 9860
- 10) Has JCAR issued a Statement of Objections to these rules? No.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 11) Differences between proposal and final version:
Minor editorial differences.
Section 703.100 has been added to the proposal to define acronyms.
In the introduction to Section 703.230, the Board has not changed "may" to "shall" as proposed. In Section 703.282(b) and (d) the Board has clarified the publication and hearing requirements. In several of the following provisions, the Board has referenced the Part 725 interim status standards instead of the final Part 724 standards.
- 12) Have all the changes agreed upon by the Board and JCAR been made as

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indicated in the agreement letter issued by JCAR?

- Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 13) Will this amendment replace an emergency amendment currently in effect? No.
 - 14) Are there any other amendments pending on this Part? No.
 - 15) Summary and Purpose of amendment:
A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.
In Section 703.184, the Board has modified the references to Federal Flood Insurance Maps in order to avoid incorporating these maps by reference. Section 703.209 specifies the application form for Miscellaneous Units, regulated under 35 Ill. Adm. Code 724.Subpart X.
Sections 703.260 et seq. are the permit modification procedures, which have been moved from Part 702, separated from the UIC permit modification procedures and amended. Sections 703.280 et seq. are the three-tiered permit modification system.
 - 16) Information and questions regarding this adopted amendment shall be directed to:
Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITSPART 703
RCRA PERMIT PROGRAM

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Purpose
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Specific Exclusions from Permit Program
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SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

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Appendix A Classification of Permit Modifications

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AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 111. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 111. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 111. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 111. Reg. 1110, effective January 2, 1987; amended in R85-23 at 10 111. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 111. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 111. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 111. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 111. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 111. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 111. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 111. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 111. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 111. Reg. 18477, effective November 13, 1989.

SUBPART A: GENERAL PROVISIONS

Section 703.100 Scope and Relation to Other Parts

- a) This Part requires RCRA permits, pursuant to Section 21(f) of the Environmental Protection Act, for hazardous waste management (HWM) facilities, which may include one or more treatment, storage or disposal (TSD) units. This Part also contains specific rules on applications for and issuance of RCRA permits;
 - b) 35 111. Adm. Code 702 contains general provisions on applications for and issuance of RCRA permits. 35 111. Adm. Code 705 contains procedures to be followed by the Illinois Environmental Protection Agency (Agency) in issuing RCRA permits;
 - c) The definitions of 35 111. Adm. Code 702.110 apply to this Part. 35 111. Adm. Code 720 contains definitions applicable to the RCRA operating standards, and 35 111. Adm. Code 721 defines "solid waste" and "hazardous waste";
 - d) The standards of 35 111. Adm. Code 724 and 725 apply to HWM facilities required to have RCRA permits. 35 111. Adm. Code 722 and 723 contain standards applicable to generators of hazardous waste.
- (Source: Amended at 13 111. Reg. 18477, effective Nov. 13, 1989)

SUBPART D: APPLICATIONS

Section 703.183 General Information

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The following information is required in the Part B application for all HWM facilities, except as 35 111. Adm. Code 724.101 provides otherwise:

- a) A general description of the facility;
- b) Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store or dispose of the wastes properly in accordance with 35 111. Adm. Code 724;
- c) A copy of the waste analysis plan required by 35 111. Adm. Code 724.113(b) and, if applicable, 35 111. Adm. Code 724.113(c);
- d) A description of the security procedures and equipment required by 35 111. Adm. Code 724.114, or a justification demonstrating the reasons for requesting a waiver of this requirement;
- e) A copy of the general inspection schedule required by 35 111. Adm. Code 724.115(b); include where applicable, as part of the inspection schedule, specific requirements in 35 111. Adm. Code 724.274, ~~724.293(f) 724.295, 724.294, 724.326, 724.354, 724.373, and 724.403 and 724.702;~~
- f) A justification of any request for a waiver of the preparedness and prevention requirements of 35 111. Adm. Code 724. Subpart C;
- g) A copy of the contingency plan required by 35 111. Adm. Code 724. Subpart D;
BOARD NOTE: Include, where applicable, as part of the contingency plan, specific requirements in 35 111. Adm. Code 724.327 and 724.355. 35 111. Adm. Code 724.355 has not yet been adopted.
- h) A description of procedures, structures or equipment used at the facility to:
 - 1) Prevent hazards in unloading operations (for example, ramps, special forklifts);
 - 2) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
 - 3) Prevent contamination of water supplies;
 - 4) Mitigate effects of equipment failure and power outages; and

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- 5) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing);
- i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive or incompatible wastes as required to demonstrate compliance with 35 Ill. Adm. Code 724.117 including documentation demonstrating compliance with 35 Ill. Adm. Code 724.117(c);
- j) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals);
- k) Facility location information as required by Section 703.184;
- l) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with 35 Ill. Adm. Code 724.116. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in 35 Ill. Adm. Code 724.116(a)(3);
- m) A copy of the closure plan and, where applicable, the post-closure plan required by 35 Ill. Adm. Code 724.212--and 724.218- and 724.297-. Include where applicable, as part of the plans, specific requirements in 35 Ill. Adm. Code 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, ~~and~~ 724.451 724.701 and 724.703;
- n) For hazardous waste disposal units that have been closed, documentation that notices required under 35 Ill. Adm. Code 724.219 have been filed;
- o) The most recent closure cost estimate for the facility prepared in accordance with 35 Ill. Adm. Code 724.242 and a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.243. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B;
- p) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with 35 Ill. Adm. Code 724.244 plus a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.245; For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B;

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- q) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of 35 Ill. Adm. Code 724.247. For a new facility, documentation showing the amount of insurance meeting the specification of 35 Ill. Adm. Code 724.247(a) and, if applicable, 35 Ill. Adm. Code 724.247(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage or disposal. A request for an alternative level of required coverage, for a new or existing facility, may be submitted as specified in 35 Ill. Adm. Code 724.247(c);
- s) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas ~~show~~shall use larger contour intervals to adequately show topographic profiles of facilities. The map ~~shall~~must clearly show the following:
- 1) Map scale and date;
 - 2) 100-year floodplain area;
 - 3) Surface waters including intermittent streams;
 - 4) Surrounding land uses (residential, commercial, agricultural, recreational);
 - 5) A wind rose (i.e., prevailing windspeed and direction);
 - 6) Orientation of the map (north arrow);
 - 7) Legal boundaries of the HWM facility site;
 - 8) Access control (fences, gates);
 - 9) Injection and withdrawal wells both on-site and off-site;
 - 10) Buildings; treatment, storage or disposal operations; or other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary and process sewage systems, loading and unloading areas, fire control facilities, etc.);

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- 11) Barriers for drainage or flood control;
- 12) Location of operational units within the HMM facility site, where hazardous waste is (or will be) treated, stored or disposed (include equipment cleanup areas);

BOARD NOTE: For large HMM facilities, the Agency ~~will~~ shall allow the use of other scales on a case by case basis.

- t) Applicants ~~may be required to~~ shall submit such information as ~~may be necessary to enable the Agency determine~~ is necessary for it to determine whether to issue a permit ~~should be issued~~ and what conditions to impose in any permit issued.

- u) For land disposal facilities, if a case-by-case extension has been approved under 35 Ill. Adm. Code 728.105, or if a petition has been approved under 35 Ill. Adm. Code 728.106, a copy of the notice of approval of the extension or of approval of the petition is required.

BOARD NOTE: ~~See 40 CFR 270.14(b) (1986) as amended at 51 Fed. Reg. 25471, July 14, 1986, and at 51 Fed. Reg. 40636, November 7, 1986, as derived from 40 CFR 270.14(b) (1988)~~

(Source: Amended at 13 Ill. Reg. 18477, effective November 13, 1989)

Section 703.184 Facility Location Information

- a) In order to show compliance with the facility location requirements of Section ~~214(k)-21(1)~~ of the Environmental Protection Act, the owner or operator ~~must~~ shall include the following information, or a demonstration that Section ~~214(k)-21(1)~~ does not apply:
- 1) Location of any active or inactive shaft or tunneled mine below the facility;
 - 2) Location of any active faults in the earth's crust within 2 miles of the facility boundary;
 - 3) Location of existing private wells or existing sources of a public water supply within 1000 feet of any disposal unit boundary;
 - 4) Location of the corporate boundaries of any municipalities within one and one-half miles of the facility boundary;

BOARD NOTE: ~~Paragraphs-Subsections (a)(1), (a)(2), (a)(3) and (a)(4) request information necessary to allow the Agency to~~

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determine the applicability of Section 21~~(k)-1~~ of the Environmental Protection Act requirements. These provisions are not intended to modify the requirements of the Act. For example, the operator is required to give the location of wells on its own property, even though the Agency might find that these do not prohibit the site location.

- 5) Documentation showing approval of municipalities if such approval is required by Section ~~214(k)-21(1)~~ of the Environmental Protection Act;

Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant ~~Federal Insurance Administration (FIA)-flood map produced by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP), if used, or the calculations and maps used where a FIA-NFIP map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating or maintaining the facility to withstand washout from a 100-year flood;~~

BOARD NOTE: NFIP maps are available as follows: Flood Map Distribution Center, National Flood Insurance Program, Federal Emergency Management Agency, 6930 (A-F) San Tomas Road, Baltimore, MD 21227-6227. 800/638-6620; and, Illinois Floodplain Information Depository, State Water Survey, 514 WSR, University of Illinois, Urbana, IL 61801. 217/333-0447.

BOARD NOTE: Where NFIP maps ~~for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency~~ are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the ~~FIA-NFIP map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA-NFIP maps are not available for a proposed facility location, the owner or operator must~~ shall use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation ~~would be~~ is.

BOARD NOTE: Derived from 40 CFR 270.14(b)(11)(iii) (1988).

Owners and operators of facilities located in the 100-year floodplain ~~must~~ shall provide the following information:

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- 1) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;
 - 2) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;
 - 3) If applicable, and in lieu of ~~paragraphs~~ subsections (d)(1) and (d)(2) above, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:
 - A) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;
 - B) A description of the location ~~(s)~~ s to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with ~~the regulations under~~ 35 Ill. Adm. Code 702, 703, 724 and 725;
 - C) The planned procedures, equipment and personnel to be used and the means to ensure that such resources will be available in time for use;
 - D) The potential for accidental discharges of the waste during movement;
- BOARD NOTE: Derived from 40 CFR 270.14(b)(11)(iv) (1988).
- e) ~~Owners and operators of existing facilities not in compliance with 35 Ill. Adm. Code 724.118(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance. Such facilities shall file a concurrent variance petition with the Board.~~
- BOARD NOTE: Derived from 40 CFR 270.14(b)(11)(v) (1988).
- f) ~~Owners or operators of new regional pollution control facilities, as defined in Section 3 of the Environmental Protection Act, shall provide documentation showing site location suitability from the county board or other governing body as provided by Section 39(c) and 39.2 of that Act.~~

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- (Source: Amended at 13 Ill. Reg. 18477, effective November 13, 1989)
- Section 703.209 Miscellaneous Units
- Except as otherwise provided in 35 Ill. Adm. Code 724.700, owners and operators of facilities that treat, store or dispose of hazardous waste in miscellaneous units shall provide the following additional information in the Part B application:
- a) A detailed description of the unit being used or proposed for use, including the following:
 - 1) Physical characteristics, materials of construction and dimensions of the unit;
 - 2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected and closed to comply with the requirements of 35 Ill. Adm. Code 724.701 and 724.702; and
 - 3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of 35 Ill. Adm. Code 724.703.
 - b) Detailed hydrologic, geologic and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of 35 Ill. Adm. Code 724.701. Preliminary hydrologic, geologic and meteorologic assessments will suffice, unless the Agency notifies the applicant that, based on the preliminary assessments, the unit will not conform with the environmental performance standards of 35 Ill. Adm. Code 724.701. The Agency shall follow the procedures for incomplete applications in 35 Ill. Adm. Code 705.122.
 - c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.
 - d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.
 - e) Any additional information which the Agency determines is necessary for evaluation of compliance of the unit with the environmental performance standards of 35 Ill. Adm. Code 724.701.
- BOARD NOTE: Derived from 40 CFR 270.23 (1988).

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(Source: Added at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

SUBPART E: SHORT TERM AND PHASED PERMITS

Section 703.222 Incinerator Conditions Prior to Trial Burn

For the purposes of determining operational readiness following completion of physical construction, the Agency ~~must~~ shall establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Agency ~~may~~ shall extend the duration of this operation period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit ~~may~~ must be modified to reflect the extension according to ~~35 Ill. Adm. Code 702.187 (Minor modifications of permits)~~ Section 703.280.

- a) Applicants ~~must~~ shall submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of 35 Ill. Adm. Code 724.443 during this period. This statement ~~shall~~ must include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in 35 Ill. Adm. Code 724.445;
- b) The Agency ~~will~~ shall review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 724.443 based on engineering judgment.

~~(Board Note: See 40 CFR 122.27(b)(1)-(5) BOARD NOTE: Derived from 40 CFR 270.62(a) (1988), as amended at 53 Fed. Reg. 37934, September 28, 1988.)~~

(Source: Amended at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

Section 703.223 Incinerator Conditions During Trial Burn

For the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 724.443 and of determining adequate operating conditions under 35 Ill. Adm. Code 724.445, the Agency ~~must~~ shall establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

- a) Applicants ~~must~~ shall propose a trial burn plan, prepared under ~~paragraph subsection (b)~~ with Part B of the permit application;

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- b) The trial burn plan must include the following information:

- 1) An analysis of each waste or mixture of wastes to be burned which includes:
 - A) Heat value of the waste in the form and composition in which it will be burned;
 - B) Viscosity (if applicable), or description of physical form of the waste;
 - C) An identification of any hazardous organic constituents listed in 35 Ill. Adm. Code 721.1--Appendix H, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see Section 703.110), or their equivalent;
 - D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," (incorporated by reference, see Section 703.110) or their equivalent;
- 2) A detailed engineering description of the incinerator for which the permit is sought including:
 - A) Manufacturer's name and model number of incinerator (if available);
 - B) Type of incinerator;
 - C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber;
 - D) Description of the auxiliary fuel system (type/feed);
 - E) Capacity of prime mover;
 - F) Description of automatic waste feed cut-off system(s);

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- G) Stack gas monitoring and pollution control equipment;
- H) Nozzle and burner design;
- I) Construction materials;
- J) Location and description of temperature, pressure and flow indicating and control devices;
- 3) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency and planned analytical procedures for sample analysis;
- 4) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned and other factors relevant to the Agency's decision under ~~paragraph-subsection (e)~~;
- 5) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;
- 6) A description of, and planned operating conditions for, any emission control equipment which will be used;
- 7) Procedures for rapidly stopping waste feed, shutting down the incinerator and controlling emissions in the event of an equipment malfunction;
- 8) Such other information as the Agency reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in ~~paragraph-subsection (e)~~. Such information must be requested by the Agency pursuant to 35 Ill. Adm. Code 705.123;
- c) The Agency, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and ~~may~~ shall require the applicant, pursuant to 35 Ill. Adm. Code 705.123, to supplement this information, if necessary, to achieve the purposes of this paragraph;
- d) Based on the waste analysis data in the trial burn plan, the Agency ~~will~~ shall specify as trial Principal Organic Hazardous Constituents (POHCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs ~~will~~ must be specified by the Agency based on its estimate of

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- the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in 35 Ill. Adm. Code 721-f, Subpart D, the hazardous waste organic constituent of constituents identified in 35 Ill. Adm. Code 721. Appendix G or H ~~of that Part~~ as the basis for listing;
- e) The Agency shall approve a trial burn plan if it finds that:
 - 1) The trial burn is likely to determine whether the incinerator performance standard required by 35 Ill. Adm. Code 724.443 can be met;
 - 2) The trial burn itself will not present an imminent hazard to human health or the environment;
 - 3) The trial burn will help the Agency to determine operating requirements to be specified under 35 Ill. Adm. Code 724.445; and
 - 4) The information sought in ~~paragraph-subsection (e)(1)~~ and ~~(e)(3)~~ cannot reasonably be developed through other means;
 - f) During each approved trial burn (or as soon after the burn as is practicable), the applicant ~~must~~ shall make the following determinations:
 - 1) A quantitative analysis of the trial POHCs, in the waste feed to the incinerator;
 - 2) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHC's, molecular oxygen and hydrogen chloride (HCl);
 - 3) A quantitative analysis of the scrubber water (if any), ash residues and other residues, for the purpose of estimating the fate of the trial POHCs;
 - 4) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 724.443(a);
 - 5) If the HCl (hydrogen chloride) emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with 35 Ill. Adm. Code 724.443(b);
 - 6) A computation of particulate emissions, in accordance with 35

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111. Adm. Code 724.443(c);
- 7) An identification of sources of fugitive emissions and their means of control;
- 8) A measurement of average, maximum and minimum temperatures and combustion gas velocity;
- 9) A continuous measurement of carbon monoxide (CO) in the exhaust gas;
- 10) Such other information as the Agency ~~may specify~~ specifies as necessary to ensure that the trial burn will determine compliance with the performance standards in 35 111. Adm. Code 724.443 and to establish the operating conditions required by 35 111. Adm. Code 724.445 as necessary to meet that performance standard.
- g) The applicant ~~must~~ shall submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and ~~must~~ shall submit the results of all the determinations required in ~~paragraph~~ subsection (f). This submission ~~shall~~ must be made within 90 days of completion of the trial burn, or later if approved by the Agency;
- h) All data collected during any trial burn must be submitted to the Agency following the completion of the trial burn;
- i) All submissions required by this paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 35 111. Adm. Code 702.126;
- j) Based on the results of the trial burn, the Agency shall set the operating requirements in the final permit according to 35 111. Adm. Code 724.445. The permit modification ~~shall~~ must proceed as a minor modification according to ~~35 111. Adm. Code 702.126~~ Section 703.280.
- ~~(Board Note: See 40 CFR 122.21(b)(2)-(4)-BOARD NOTE: Derived from 40 CFR 270.62(a) (1988), as amended at 53 Fed. Reg. 37934, September 28, 1988.~~
- (Source: Amended at 13 111. Reg. 18477, effective Nov. 13, 1989)
- Section 703.230 Land Treatment Demonstration
- a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of 35 111. Adm. Code 724.372,

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the Agency may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in 35 111. Adm. Code 724.372(c). The permit ~~may~~ must be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two phase facility permit covering the field tests, or laboratory analyses and design, construction, operation and maintenance of the land treatment unit ~~+~~ -.

- 1) The Agency ~~may~~ shall issue a two-phase facility permit if it finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit;
- 2) If the Agency finds that not enough information exists upon which it can establish permit conditions to attempt to provide for compliance with all of the requirements of 35 111. Adm. Code 724.372(c), it ~~must~~ shall issue a treatment demonstration permit covering only the field test or laboratory analyses;
- b) If the Agency finds that a phased permit ~~may~~ is to be issued, it ~~will~~ shall establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions ~~will~~ must include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post demonstration cleanup activities and any other conditions which the Agency finds ~~may~~ be necessary under 35 111. Adm. Code 724.372(c). The Agency ~~will~~ shall include conditions in the second phase of the facility permit to attempt to meet all 35 111. Adm. Code 724.372(c). Subpart M requirements pertaining to unit design, construction, operation and maintenance. The Agency ~~will~~ shall establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application:
- 1) The first phase of the permit ~~will~~ be ~~becomes~~ effective as provided in 35 111. Adm. Code 705.201(d);
- 2) The second phase of the permit ~~will~~ be ~~becomes~~ effective as provided in ~~paragraph~~ subsection (d);
- c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, it ~~must~~ shall submit to the Agency a certification, signed by a person authorized to sign a permit application or report under 35 111. Adm. Code 702.126, that

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the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator shall also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Agency approves a later date;

- d) If the Agency determines that the results of the field tests or laboratory analyses meet the requirements of 35 Ill. Adm. Code 724.372, it ~~will~~ shall modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with 35 Ill. Adm. Code 724.372. Subpart M, based upon the results of the field tests or laboratory analyses.

- 1) This permit modification may proceed as a minor modification under 35 Ill. Adm. Code 702.187, ~~provided any such change is minor, or otherwise will proceed as a modification under 35 Ill. Adm. Code 702.184(b)-Section 703.280, or otherwise must proceed as a modification under Section 703.271(b).~~ If such modifications are necessary, the second phase of the permit becomes effective only after those modifications have been made.

- 2) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Agency ~~will~~ shall give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then ~~will~~ becomes effective as specified in 35 Ill. Adm. Code 705.201(d)-~~4~~.
- 3) If modifications under 35 Ill. Adm. Code 702.184(b) are necessary, the second phase of the permit ~~will~~ become effective only after those modifications have been made.

~~Board Note: See 40 CFR 122.27(e)-1-BOARD NOTE: Derived from 40 CFR 270.63 (1988), as amended at 53 Fed. Reg. 37934, September 28, 1988.~~

(Source: Amended at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

SUBPART F: PERMIT CONDITIONS

Section 703.247 Anticipated Noncompliance

In addition to 35 Ill. Adm. Code 702.152(b), for a new facility, the permittee shall not treat, store or dispose of hazardous waste; and for a facility being modified, the permittee shall not treat, store or dispose of hazardous waste

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in the modified portion of the facility, except as provided in Section 703.280, until:

- a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

b) Either:

- 1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

- 2) Within 15 days after the date of submission of the letter in subsection (a), the permittee has not received notice from the Agency of its intent to inspect, the permittee may commence treatment, storage or disposal of hazardous waste.

BOARD NOTE: Derived from 40 CFR 270.30(1)(2) (1988), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

SUBPART G: CHANGES TO PERMITS

Section 703.260 Transfer

- a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under subsection (b) or Section 703.272) to identify the new permittee and incorporate such other requirements as are necessary under the appropriate Act. The new owner or operator to whom the permit is transferred shall comply with all the terms and conditions specified in such permit.

b) Changes in the ownership or operational control of a facility must be made as a Class I modification with the prior written approval of the Agency in accordance with Section 703.261. The new owner or operator shall submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Agency. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of 35 Ill. Adm. Code 724. Subpart H (Financial Requirements), until the new owner or operator has demonstrated compliance with that Subpart. The new owner or operator shall demonstrate compliance with that Subpart within six months

after the date of change of operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with that Subpart, the Agency shall notify the old owner or operator that the old owner or operator no longer needs to comply with that Subpart as of the date of demonstration.

BOARD NOTE: Derived from 40 CFR 270.40, as amended at 53 Fed. Reg. 37934, September 28, 1988.

BOARD NOTE: The new operator may be required to employ a chief operator who is certified pursuant to 35 Ill. Adm. Code 745.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.270 Modification

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (See 35 Ill. Adm. Code 702.140 through 702.152 and Section 703.241 et seq.), receives a request for reissuance under 35 Ill. Adm. Code 705.128 or conducts a review of the permit file) it may determine whether or not one or more of the causes, listed in Sections 703.271 or 703.272, for modification, reissuance or both, exist. If cause exists, the Agency shall modify or reissue the permit accordingly, subject to the limitations of Section 703.273, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 35 Ill. Adm. Code 705.128(c)(2)) If cause does not exist under Section 703.271 or 703.272, the Agency shall not modify or reissue the permit, except on the request of the permittee. If a permit modification is requested by the permittee, the Agency shall approve or deny the request according to the procedures of Section 703.280 et seq. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: Derived from the preamble to 40 CFR 270.41, as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

Section 703.271 Causes for Modification

The following are cause for modification, but not reissuance, of permits; the following are cause for reissuance as well as modification when the permittee requests or agrees:

- a) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after

permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

- b) Information. The Agency has received information. Permits will be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance or test methods) and would have justified the application of different permit conditions at the time of issuance.

- c) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations or by judicial decision after the permit was issued.

- d) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

The Agency shall also modify a permit:

- e) 1) When modification of a closure plan is required under 35 Ill. Adm. Code 724.212(b) or 724.218(b).
- 2) After the Agency receives the notification of expected closure under 35 Ill. Adm. Code 724.213, when the Agency determines that extension of the 90 or 180 day periods under 35 Ill. Adm. Code 724.213, modification of the 30-year post-closure period under 35 Ill. Adm. Code 724.217(a), continuation of security requirements under 35 Ill. Adm. Code 724.217(b), or permission to disturb the integrity of the containment system under 35 Ill. Adm. Code 724.217(c) are unwarranted.
- 3) When the permittee has filed a request under 35 Ill. Adm. Code 724.247(c) for a modification to the level of financial responsibility or when the Agency demonstrates under 35 Ill. Adm. Code 724.247(d) that an upward adjustment of the level of financial responsibility is required.
- 4) When the corrective action program specified in the permit under 35 Ill. Adm. Code 724.200 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.
- 5) To include a detection monitoring program meeting the requirements of 35 Ill. Adm. Code 724.198, when the owner or operator has been conducting a compliance monitoring program

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under 35 Ill. Adm. Code 724.199 or a corrective action program under 35 Ill. Adm. Code 724.200 and the compliance period ends before the end of the post-closure care period for the unit.

- 6) When a permit requires a compliance monitoring program under 35 Ill. Adm. Code 724.199, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

- 7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

- 8) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

- f) Notwithstanding any other provision of this Section, when a permit for a land disposal facility is reviewed under 35 Ill. Adm. Code 702.161(d), the Agency shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this Part and 35 Ill. Adm. Code 702 and 720 through 726.

BOARD NOTE: Derived from 40 CFR 270.41(a), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 1847, effective Nov. 13, 1989)

Section 703.272 Causes for Modification or Reissuance

The following are causes to modify or, alternatively, reissue a permit: The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit.

BOARD NOTE: Derived from 40 CFR 270.41(b), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

Section 703.273 Facility Siting

Suitability of the facility location will not be considered at the time of permit modification or reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance or unless required under the Environmental Protection Act. However, certain modifications require site location suitability approval pursuant to Section 39.2 of the Environmental Protection Act.

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BOARD NOTE: Derived from 40 CFR 270.41(c), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.280 Permit Modification at the Request of the Permittee

- a) Class 1 modifications. See Section 703.281.

- b) Class 2 modifications. See Section 703.282.

- c) Class 3 modifications. See Section 703.283.

- d) Other modifications.

- 1) In the case of modifications not explicitly listed in Appendix A, the permittee may submit a Class 3 modification request to the Agency, or the permittee may request a determination by the Agency that the modification be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, the permittee shall provide the Agency with the necessary information to support the requested classification.

- 2) The Agency shall make the determination described in subsection (d)(1) as promptly as practicable. In determining the appropriate class for a specific modification, the Agency shall consider the similarity of the modification to other modifications codified in Appendix A and the following criteria:

- A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Agency may require prior approval.

- B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to

- i) Common variations in the types and quantities of the of the wastes managed under the facility permit,

- ii) Technological advances, and

- iii) Changes necessary to comply with new regulations, where these changes can be implemented without

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substantially changing design specifications or management practices in the permit.

C) Class 3 modifications substantially alter the facility or its operation.

e) Temporary authorizations.

- 1) Upon request of the permittee, the Agency shall, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations have a term of not more than 180 days.

2) Procedures.

A) The permittee may request a temporary authorization for:

- i) Any Class 2 modification meeting the criteria in subsection (e)(3)(B), and

ii) Any Class 3 modification that meets the criteria in subsection (e)(3)(B)(i); or that meets the criteria in subsection (e)(3)(B)(iii) through (v) and provides improved management or treatment of a hazardous waste already listed in the facility permit.

B) The temporary authorization request must include:

- 1) A description of the activities to be conducted under the temporary authorization;

ii) An explanation of why the temporary authorization is necessary; and

iii) Sufficient information to ensure compliance with 35 Ill. Adm. Code 724 standards.

C) The permittee shall send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Agency and to appropriate units of State and local governments as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.

3) The Agency shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency shall find:

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A) The authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.

B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

- i) To facilitate timely implementation of closure or corrective action activities;

ii) To allow treatment or storage in tanks or containers of restricted wastes in accordance with 35 Ill. Adm. Code 728;

iii) To prevent disruption of ongoing waste management activities;

iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

v) To facilitate other changes to protect human health and the environment.

4) A temporary authorization shall be reissued for one additional term of up to 180 days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D), or

B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.

f) Public notice and appeals of permit modification decisions.

- 1) The Agency shall notify persons on the facility mailing list and appropriate units of State and local government within 10 days of any decision to grant or deny a Class 2 or 3 permit modification request. The Agency shall also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under Section 703.282(f)(3) or

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(f)(5).

- 2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.

- 3) An automatic authorization that goes into effect under Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal, notwithstanding the provisions of 35 Ill. Adm. Code 705.204.

g) Newly listed or identified wastes.

- 1) The permittee is authorized to continue to manage wastes listed or identified as hazardous under 35 Ill. Adm. Code 721 if the permittee:

A) Was in existence as a hazardous waste facility with respect to the newly listed or characterized waste on the effective date of the final rule listing or identifying the waste;

B) Submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;

C) Is in compliance with the standards of 35 Ill. Adm. Code 725;

D) In the case of Classes 2 and 3 modifications, also submits a complete permit modification request within 180 days after the effective date of the rule listing or identifying the waste; and

E) In the case of land disposal units, certifies that such unit is in compliance with all applicable 35 Ill. Adm. Code 725 groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous. If the owner or operator fails to clarify compliance with these requirements, the owner or operator loses authority to operate under this Section.

- 2) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

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- h) Permit modification list. The Agency shall maintain a list of all approved permit modifications and shall publish a notice once a year in a State-wide newspaper that an updated list is available for review.

BOARD NOTE: Derived from 40 CFR 270.42(d) through (h), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.281 Class 1 Modifications

- a) Except as provided in subsection (a)(2), the permittee may put into effect Class 1 modifications listed in Appendix A under the following conditions:

1) The permittee shall notify the Agency concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee shall provide the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225 and 703.230.

2) The permittee shall send a notice of the modification to all persons on the facility mailing list, maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163(a)(4), and the appropriate units of State and local government, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within 90 calendar days after the change is put into effect. For the Class 1 modifications that require prior Agency approval, the notification must be made within 90 calendar days after the Agency approves the request.

3) Any person may request the Agency to review, and the Agency shall for cause reject, any Class 1 modification. The Agency shall inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee shall comply with the original permit conditions.

- b) Class 1 permit modifications identified in Appendix A by an asterisk shall be made only with the prior written approval of the Agency.

- c) For a Class 1 permit modification, the permittee may elect to follow

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the procedures in Section 703.282 for Class 2 modifications instead of the Class 1 procedures. The permittee shall inform the Agency of this decision in the notice required in Section 703.282(b)(1).

BOARD NOTE: Derived from 40 CFR 270.42(a), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.282 Class 2 Modifications

a) For Class 2 modifications, listed in Appendix A, the permittee shall submit a modification request to the Agency which:

- 1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
- 2) Identifies that the modification is a Class 2 modification;
- 3) Explains why the modification is needed; and
- 4) Provides the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225 and 703.230.

b) The permittee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government as specified in 35 Ill. Adm. Code 705.163(a)(5) and shall, to the extent practicable, publish this notice in a newspaper of general circulation published in the County in which the facility is located. If no such newspaper exists, the permittee shall publish the notice in a newspaper of general circulation in the vicinity of the facility. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee shall provide to the Agency evidence of the mailing and publication. The notice must include:

- 1) Announcement of a 60-day comment period, in accordance with subsection (e), and the name and address of an Agency contact to whom comments must be sent;
- 2) Announcement of the date, time and place for a public meeting held in accordance with subsection (d);
- 3) Name and telephone number of the permittee's contact person;
- 4) Name and telephone number of an Agency contact person;

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5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and

6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."

c) The permittee shall place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d) The permittee shall hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) and no later than 15 days before the close of the 60-day comment period. The meeting must be held in the County in which the permitted facility is located unless it is impracticable to do so, in which case the hearing must be held in the vicinity of the facility.

e) The public must be provided 60 days to comment on the modification request. The comment period begins on the date the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.

f) Agency decision.

1) No later than 90 days after receipt of the notification request, the Agency shall:

- A) Approve the modification request, with or without changes, and modify the permit accordingly;
- B) Deny the request;
- C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for the following reason:
 - i) There is significant public concern about the proposed modification; or
 - ii) The complex nature of the change requires the more extensive procedures of Class 3.
- D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days, or

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E) Notify the permittee that the Agency will decide on the request within the next 30 days.

2) If the Agency notifies the permittee of a 30-day extension for a decision, the Agency shall, no later than 120 days after receipt of the modification request:

A) Approve the modification request, with or without changes, and modify the permit accordingly;

B) Deny the request;

C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for the following reasons:

1) There is significant public concern about the proposed modification; or

1i) The complex nature of the change requires the more extensive procedures of Class 3.

D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

3) If the Agency fails to make one of the decisions specified in subsection (f)(2) by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal Agency action. The permit modification request must be conducted as described in the appropriate standards of 35 Ill. Adm. Code 725. If the Agency approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subsections (f)(1), (2) or (3), such action cancels the temporary or automatic authorization.

4) Notification by permittee.

A) In the case of an automatic authorization under subsection (f)(3), or a temporary authorization under subsection (f)(1)(D) or (f)(2)(D), if the Agency has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee shall, within seven days after that time, send a notification to persons on the facility mailing list, and make a reasonable effort to notify other

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persons who submitted written comments on the modification request, that:

1) The permittee has been authorized temporarily to conduct the activities described in the permit modification request, and

1i) Unless the Agency acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

8) If the owner or operator fails to notify the public by the date specified in subsection (f)(4)(A), the effective date of the permanent authorization will be deferred until 50 days after the owner or operator notifies the public.

5) Except as provided in subsection (f)(7), if the Agency does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3 modification, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under Section 703.270 or Section 703.280. The activities authorized under this subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725.

6) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Agency shall consider all written comments submitted to the Agency during the public comment period and shall respond in writing to all significant comments in the Agency's decision.

7) With the written consent of the permittee, the Agency may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

9) The Agency shall deny or change the terms of a Class 2 permit modification request under subsection (f)(1) through (f)(3) for the following reasons:

1) The modification request is incomplete;

2) The requested modification does not comply with the appropriate requirements of 35 Ill. Adm. Code 724 or other applicable

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requirements; or

3) The conditions of the modification fail to protect human health and the environment.

h) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Agency establishes a later date for commencing construction and informs the permittee in writing before day 60.

BOARD NOTE: Derived from 40 CFR 270.42(b), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.283 Class 3 Modifications

a) For Class 3 modifications, listed in Appendix A, the permittee shall submit a modification request to the Agency which:

- 1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
- 2) Identifies that the modification is a Class 3 modification;
- 3) Explains why the modification is needed; and
- 4) Provides the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225 and 703.230.

b) The permittee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government as specified in 35 Ill. Adm. Code 705.163(a)(5) and shall publish this notice in a newspaper of general circulation in the County in which the facility is located. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee shall provide to the Agency evidence of the mailing and publication. The notice must include:

- 1) Announcement of a 60-day comment period, in accordance with subsection (e), and the name and address of an Agency contact to whom comments must be sent;
- 2) Announcement of the date, time and place for a public meeting held in accordance with subsection (d);

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3) Name and telephone number of the permittee's contact person;

4) Name and telephone number of an Agency contact person;

5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and

6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."

c) The permittee shall place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d) The permittee shall hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

e) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.

f) After the conclusion of the 60-day comment period, the Agency shall grant or deny the permit modification request according to the permit modification procedures of 35 Ill. Adm. Code 705. In addition, the Agency shall consider and respond to all significant written comments received during the 60-day comment period.

BOARD NOTE: Derived from 40 CFR 270.42(c), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477 effective Nov. 13, 1989)

Section 703.Appendix A Classification of Permit Modifications

Class Modifications

A. General Permit Provisions

1. Administrative and informational changes.
2. Correction of typographical errors.
3. Equipment replacement or upgrading with functionally equivalent

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components (e.g., pipes, valves, pumps, conveyors, control(s)).

4. Changes in the frequency of or procedures for monitoring, reporting, sampling or maintenance activities by the permittee:

a. To provide for more frequent monitoring, reporting or maintenance.

b. Other changes.

5. Schedule of compliance:

a. Changes in interim compliance dates, with prior approval of the Agency.

b. Extension of final compliance date.

6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Agency.

7. Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed.

8. General Facility Standards

1. Changes to waste sampling or analysis methods:

a. To conform with Agency guidance or Board regulations.

b. Other changes.

2. Changes to analytical quality assurance/control plan:

a. To conform with agency guidance or regulations.

b. Other changes.

3. Changes in procedures for maintaining the operating record.

4. Changes in frequency or content of inspection schedules.

5. Changes in the training plan:

a. That affect the type or decrease the amount of training given to employees.

b. Other changes.

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6. Contingency plan:

a. Changes in emergency procedures (i.e., spill or release response procedures).

b. Replacement with functionally equivalent equipment, upgrade or relocate emergency equipment listed.

c. Removal of equipment from emergency equipment list.

d. Changes in name, address or phone number of coordinators or other persons or agencies identified in the plan.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.

C. Groundwater Protection

1. Changes to wells:

a. Changes in the number, location, depth or design of upgradient or downgradient wells of permitted groundwater monitoring system.

b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design or depth of the well.

2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.

3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.

4. Changes in point of compliance.

5. Changes in indicator parameters, hazardous constituents or concentration limits (including ACLs (Alternate Concentration Limits)):

a. As specified in the groundwater protection standard.

b. As specified in the detection monitoring program.

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- 2 6. Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(j), unless otherwise specified in this Appendix.
- 3 7. Compliance monitoring program:
 - a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(h)(4) and 724.199.
 - b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(k), unless otherwise specified in this Appendix.
- 2 8. Corrective action program:
 - a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(1)(2) and 724.200.
 - b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.
- 3 1. Changes to the closure plan:
 - a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.
 - b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.
 - c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.
 - d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.
 - e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.
- 3 2. Creation of a new landfill unit as part of closure.

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- 3 3. Addition of the following new units to be used temporarily for closure activities:
 - a. Surface impoundments.
 - b. Incinerators.
 - c. Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).
 - d. Waste piles that comply with 35 Ill. Adm. Code 724.350(c).
 - e. Tanks or containers (other than specified below).
 - f. Tanks used for neutralization, dewatering, phase separation or component separation, with prior approval of the Agency.
- 1 E. Post-Closure
 1. Changes in name, address or phone number of contact in post-closure plan.
 2. Extension of post-closure care period.
 3. Reduction in the post-closure care period.
 4. Changes to the expected year of final closure, where other permit conditions are not changed.
 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.
- 2 F. Containers
 1. Modification or addition of container units:
 - a. Resulting in greater than 25% increase in the facility's container storage capacity.
 - b. Resulting in up to 25% increase in the facility's container storage capacity.
 2. Modification of a container unit without increasing the capacity of the unit.

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1. b. Addition of a roof to a container unit without alteration of the containment system.

3. Storage of different wastes in containers:

3. a. That require additional or different management practices from those authorized in the permit.

2. b. That do not require additional or different management practices from those authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

2. 4. Other changes in container management practices (e.g., aisle space; types of containers; segregation).

G. Tanks

1.

3. a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in paragraphs G(1)(c) and G(1)(d).

2. b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in paragraph G(1)(d).

2. c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation or component separation.

1* d. After prior approval of the Agency, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation or component separation.

2. 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.

1. 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided:

a. The capacity difference is no more than 1500 gallons.

b. The facility's permitted tank capacity is not increased and

c. The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice.

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications or significantly different tank treatment process from that authorized in the permit.

b. That do not require additional or different management practices, tank design, different fire protection specification or significantly different tank treatment process than authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.

2. Replacement of a surface impoundment unit.

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system or leachate collection system.

4. Modification of a surface impoundment management practice.

5. Treatment, storage or disposal of different wastes in surface impoundments:

a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.

b. That do not require additional or different management

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practices or different design of the liner or leak detection system than authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

1. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).

1. Modification or addition of waste pile units:

3. a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity.
2. b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity.

2. 2. Modification of waste pile unit without increasing the capacity of the unit.

1. 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.

2. 4. Modification of a waste pile management practice.

2. 5. Storage or treatment of different wastes in waste piles:

3. a. That require additional or different management practices or different design of the unit.
2. b. That do not require additional or different management practices or different design of the unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

1. Landfills and Unenclosed Waste Piles

3. 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.
3. 2. Replacement of a landfill.

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3. 3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control or final cover system.

2. 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control or final cover system.

2. 5. Modification of a landfill management practice.

2. 6. Landfill different wastes:

3. a. That require additional or different management practices, different design of the liner, leachate collection system or leachate detection system.

2. b. That do not require additional or different management practices, different design of the liner, leachate collection system or leachate detection system.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

3. 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.

2. 2. Modification of run-on control system.

3. 3. Modify run-off control system.

2. 4. Other modification of land treatment unit component specifications or standards required in permit.

2. 5. Management of different wastes in land treatment units:

3. a. That require a change in permit operating conditions or unit design specifications.
2. b. That do not require a change in permit operating conditions or unit design specifications.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

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6. Modification of a land treatment unit management practice to:
 - a. Increase rate or change method of waste application.
 - b. Decrease rate of waste application.
7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.
8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).
10. Changes in the unsaturated zone monitoring system resulting in a change to the location, depth, number of sampling points or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.
12. Changes in background values for hazardous constituents in soil and soil-pore liquid.
13. Changes in sampling, analysis or statistical procedure.
14. Changes in land treatment demonstration program prior to or during the demonstration.
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated

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17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.
18. Changes in vegetative cover requirements for closure.
- L. Incinerators
 1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed rate limit or an organic chlorine feed rate limit. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
 2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed limit or an organic chlorine feed rate limit. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
 3. Modification of an incinerator unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl or particulates from the combustion gases or by changing other features of the incinerator that could affect its capability to meet the regulatory performance standards. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.
 4. Modification of an incinerator unit in a manner that will not likely affect the capability of the unit to meet the regulatory performance standards but which will change the operating conditions or monitoring requirements specified in the permit. The Agency may require a new trial burn to demonstrate compliance with the regulatory performance standards.

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5. Operating requirements:

3 a. Modification of the limits specified in the permit for minimum combustion gas temperature, minimum combustion gas residence time or oxygen concentration in the secondary combustion chamber. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3 b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.

2 c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.

6. Incineration of different wastes:

3 a. If the waste contains a POHC that is more difficult to incinerate than authorized by the permit or if incineration of the waste requires compliance with different regulatory performance standards than specified in the permit, the Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

b. If the waste does not contain a POHC that is more difficult to incinerate than authorized by the permit and if incineration of the waste does not require compliance with different regulatory performance standards than specified in the permit.

BOARD NOTE: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.

1* b. Authorization of up to an additional 720 hours of waste

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1* c. incineration during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.

1* d. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.

1 8. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.

1 8. Substitution of an alternate type of fuel that is not specified in the permit.

BOARD NOTE: Derived from 40 CFR 270.42, Appendix I, as adopted at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477, effective Nov. 13, 1989)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 722
- 3) Section Numbers: Adopted Action:
722.Appendix A Amendment
- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.
- 5) Effective Date of Amendment: November 13, 1989
- 6) Does this rulemaking contain an automatic repeal date?: No.
- 7) Does this amendment contain incorporations by reference?
Yes. This Part incorporates federal regulations by reference. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply.
- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.
- 9) Notice of Proposal Published in Illinois Register:
June 30, 1989; 13 Ill. Reg. 9905
- 10) Has JCAR issued a Statement of Objections to these rules? No.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 11) Differences between proposal and final version:
None.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

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- 13) Will this amendment replace an emergency amendment currently in effect? No.
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and Purpose of amendment:
A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 16) Information and questions regarding this adopted amendment shall be directed to:
Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page.

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 1: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 722

STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section
722.110
722.111
722.112

Purpose, Scope and Applicability
Hazardous Waste Determination
USEPA Identification Numbers

SUBPART B: THE MANIFEST

Section
722.120
722.121
722.122
722.123

General Requirements
Acquisition of Manifests
Number of Copies
Use of the Manifest

SUBPART C: PRE-TRANSPORT REQUIREMENTS

Section
722.130
722.131
722.132
722.133
722.134

Packaging
Labeling
Marking
Placarding
Accumulation Time

SUBPART D: RECORDKEEPING AND REPORTING

Section
722.140
722.141
722.142
722.143
722.144

Recordkeeping
Annual Reporting
Exception Reporting
Additional Reporting
Special Requirements for Generators of between 100 and 1000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

Section
722.150
722.151
722.152
722.153
722.154
722.155
722.156
722.157

Applicability
Definitions
General Requirements
Notification of Intent to Export
Special Manifest Requirements
Exception Report
Annual Reports
Recordkeeping

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SUBPART F: IMPORTS OF HAZARDOUS WASTE

Section
722.160

Imports of Hazardous Waste

SUBPART G: FARMERS

Section
722.170

Farmers

Appendix A Hazardous Waste Manifest

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 111. Reg. 9781, effective as noted in 35 111. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 111. Reg. 4828, effective as noted in 35 111. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 111. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 111. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 111. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 111. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 111. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 111. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 111. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 111. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 111. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 111. Reg. 18523, effective November 13, 1989

Appendix A Hazardous Waste Manifest

The Board incorporates by reference 40 CFR 262, Appendix A-(1986), as amended at 51 Fed. Reg. 35190, October 1, 1986-(1988), as amended at 53 Fed. Reg. 45090, November 8, 1988. This part incorporates no later amendments or editions. The Agency shall prepare manifest forms based on 40 CFR 262, Appendix, with such changes as are necessary under Illinois law.

(Source: Amended at 13 111. Reg. 18523, effective Nov. 13, 1989)

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 724
- 3) Section Numbers:
724.110, 724.113, 724.115, 724.118, 724.154, 724.173
724.190, 724.191, 724.192, 724.197, 724.198, 724.199
724.211, 724.212, 724.214, 724.217, 724.218, 724.241
724.242, 724.244, 724.247, 724.251, 724.250, 724.293
724.296
724.700, 724.701, 724.702, 724.703
Adopted Action:
Amendments
Amendments
Amendments
Amendments
Amendments
Amendment
New Sections
- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.
- 5) Effective Date of Amendment: November 13, 1989
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference?
Yes. Section 724.251 incorporates a federal regulation by reference. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply.
- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.
- 9) Notice of Proposal Published in Illinois Register:
June 30, 1989; 13 Ill. Reg. 9909
- 10) Has JCAR issued a Statement of Objections to these rules? No.
Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 11) Differences between proposal and final version:
Minor editorial differences.
In Section 724.241, the definitions of "pollutant" and "pollution incident" have been rearranged. In Section 724.247, the references to the

NOTICE OF ADOPTED AMENDMENTS

- Corporate Fiduciary Act have been updated.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?
Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 13) Will this amendment replace an emergency amendment currently in effect? No.
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and Purpose of amendment:
A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.
This Part includes numerous minor amendments which change cross references to reflect new or modified requirements. These include references to First Third landfill bans (Part 728), miscellaneous units (Subpart X), permit modification (Part 703) and tank systems (Subpart J).
The amendments to Section 724.190 et seq. establish new statistical methods for determining compliance with groundwater quality limitations in permits.
Sections 724.241 et seq. concern liability insurance requirements. The Board has adopted definitions based on standard insurance industry definitions, and has limited the methods of complying with the insurance requirement to those which are governed by Illinois law, from providers licensed or regulated in Illinois.
Sections 724.290 et seq. are minor amendments to the tank system rules. Sections 724.700 et seq. are new Sections governing "miscellaneous units" managing hazardous waste.

POLLUTION CONTROL BOARD

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16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Purpose, Scope and Applicability
Relationship to Interim Status Standards

SUBPART B: GENERAL FACILITY STANDARDS

Section	Applicability
724.110	Identification Number
724.111	Required Notices
724.112	General Waste Analysis
724.113	Security
724.114	General Inspection Requirements
724.115	Personnel Training
724.116	General Requirements for Ignitable, Reactive or Incompatible Wastes
724.117	Location Standards
724.118	

SUBPART C: PREPAREDNESS AND PREVENTION

Section	Applicability
724.130	Design and Operation of Facility
724.131	Required Equipment
724.132	Testing and Maintenance of Equipment
724.133	Access to Communications or Alarm System
724.134	Required Aisle Space
724.135	Arrangements with Local Authorities
724.137	

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section	Applicability
724.150	Purpose and Implementation of Contingency Plan
724.151	Content of Contingency Plan
724.152	Copies of Contingency Plan
724.153	Amendment of Contingency Plan
724.154	Emergency Coordinator
724.155	Emergency Procedures
724.156	

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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Section
724.170 Applicability
724.171 Use of Manifest System
724.172 Manifest Discrepancies
724.173 Operating Record
724.174 Availability, Retention and Disposition of Records
724.175 Annual Report
724.176 Unmanifested Waste Report
724.177 Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section
724.190 Applicability
724.191 Required Programs
724.192 Groundwater Protection Standard
724.193 Hazardous Constituents
724.194 Concentration Limits
724.195 Point of Compliance
724.196 Compliance Period
724.197 General Groundwater Monitoring Requirements
724.198 Detection Monitoring Program
724.199 Compliance Monitoring Program
724.200 Corrective Action Program
724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE

Section
724.210 Applicability
724.211 Closure Performance Standard
724.212 Closure Plan; Amendment of Plan
724.213 Closure; Time Allowed For Closure
724.214 Disposal or Decontamination of Equipment, Structures and Soils
724.215 Certification of Closure
724.216 Survey Plat
724.217 Post-closure Care and Use of Property
724.218 Post-closure Plan; Amendment of Plan
724.219 Post-closure Notices
724.220 Certification of Completion of Post-closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section
724.240 Applicability
724.241 Definitions of Terms As Used In This Subpart
724.242 Cost Estimate for Closure
724.243 Financial Assurance for Closure
724.244 Cost Estimate for Post-Closure Care
724.245 Financial Assurance for Post-Closure Care
724.246 Use of a Mechanism for Financial Assurance of Both Closure and

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724.247 Post-closure Care
724.248 Liability Requirements
724.251 Incapacity of Owners or Operators, Guarantors or Financial Institutions
Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section
724.270 Applicability
724.271 Condition of Containers
724.272 Compatibility of Waste With Container
724.273 Management of Containers
724.274 Inspections
724.275 Containment
724.276 Special Requirements for Ignitable or Reactive Waste
724.277 Special Requirements for Incompatible Wastes
724.278 Closure

SUBPART J: TANK SYSTEMS

Section
724.290 Applicability
724.291 Assessment of Existing Tank System's Integrity
724.292 Design and Installation of New Tank Systems or Components
724.293 Containment and Detection of Releases
724.294 General Operating Requirements
724.295 Inspections
724.296 Response to Leaks or Spills and Disposition of Leaking or unfit-for-use Tank Systems
724.297 Closure and Post-Closure Care
724.298 Special Requirements for Ignitable or Reactive Waste
724.299 Special Requirements for Incompatible Wastes
724.300 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

SUBPART K: SURFACE IMPOUNDMENTS

Section
724.320 Applicability
724.321 Design and Operating Requirements
724.322 Double-lined Surface Impoundments: Exemption from Subpart F: Ground-water Protection Requirements (Repealed)
724.326 Monitoring and Inspection
724.327 Emergency Repairs; Contingency Plans
724.328 Closure and Post-closure Care
724.329 Special Requirements for Ignitable or Reactive Waste
724.330 Special Requirements for Incompatible Wastes
724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

SUBPART L: WASTE PILES

Section
724.350 Applicability
724.351 Design and Operating Requirements
724.352 Double-lined Piles: Exemption from Subpart F: Ground-water
Protection Requirements (Repealed)
724.353 Protection of Liners: Exemption from Subpart F: Ground-water
Protection Requirements (Repealed)
724.354 Monitoring and Inspection
724.356 Special Requirements for Ignitable or Reactive Waste
724.357 Special Requirements for Incompatible Waste
724.358 Closure and Post-Closure Care
724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023,
F026 and F027

SUBPART M: LAND TREATMENT

Section
724.370 Applicability
724.371 Treatment Program
724.372 Treatment Demonstration
724.373 Design and Operating Requirements
724.376 Food-chain Crops
724.378 Unsaturated Zone Monitoring
724.379 Recordkeeping
724.380 Closure and Post-Closure Care
724.381 Special Requirements for Ignitable or Reactive Waste
724.382 Special Requirements for Incompatible Waste
724.383 Special Requirements for Hazardous Wastes F020, F021, F022, F023,
F026 and F027

SUBPART N: LANDFILLS

Section
724.400 Applicability
724.401 Design and Operating Requirements
724.402 Double-lined Landfills: Exemption from Subpart F: Ground-water
Protection Requirements (Repealed)
724.403 Monitoring and Inspection
724.409 Surveying and Recordkeeping
724.410 Closure and Post-Closure Care
724.412 Special Requirements for Ignitable or Reactive Waste
724.413 Special Requirements for Incompatible Waste
724.414 Special Requirements for Bulk and Containerized Liquids
724.415 Special Requirements for Containers
724.416 Disposal of Small Containers of Hazardous Waste in Overpacked
Drums (Lab Packs)
724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023,
F026 and F027

SUBPART O: INCINERATORS

Section
724.440 Applicability
724.441 Waste Analysis
724.442 Principal Organic Hazardous Constituents (POHCs)
724.443 Performance Standards
724.444 Hazardous Waste Incinerator Permits
724.445 Operating Requirements
724.447 Monitoring and Inspections
724.451 Closure

SUBPART X: MISCELLANEOUS UNITS

Section
724.701 Applicability
724.701 Environmental Performance Standards
724.702 Monitoring, Analysis, Inspection, Response, Reporting and
Corrective Action
724.703 Post-closure Care

Appendix A RECORDKEEPING INSTRUCTIONS
Appendix B EPA REPORT FORM AND INSTRUCTIONS (Repealed)
Appendix D COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER STUDENT'S T-TEST
Appendix E EXAMPLES OF POTENTIALLY INCOMPATIBLE WASTE
Appendix I Groundwater Monitoring List

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the
Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars.
1022.4 and 1027).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 111. Reg. 14059, effective
October 12, 1983; amended in R84-9 at 9 111. Reg. 11964, effective July 24,
1985; amended in R85-22 at 10 111. Reg. 1136, effective January 2, 1986;
amended in R86-1 at 10 111. Reg. 14119, effective August 12, 1986; amended in
R86-28 at 11 111. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11
111. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 111. Reg.
13577, effective August 4, 1987; amended in R87-5 at 11 111. Reg. 19397,
effective November 12, 1987; amended in R87-39 at 12 111. Reg. 13135,
effective July 29, 1988; amended in R88-16 at 13 111. Reg. 458, effective
December 28, 1988; amended in R89-1 at 13 111. Reg. 18527,
effective November 13, 1989.

SUBPART B: GENERAL FACILITY STANDARDS

Section 724.110 Applicability
a) The regulations in this Subpart apply to owners and operators of all
hazardous waste facilities, except as provided in Section 724.101 and
Paragraph subsection (b).

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- b) Section 724.118(b) applies only to facilities subject to regulation under Subparts 1 through 0 and Subpart X.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.113 General Waste Analysis

a) Analysis:

- 1) Before an owner or operator treats, stores or disposes of any hazardous waste, the owner or operator ~~must~~ shall obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store or dispose of the waste in accordance with the requirements of this Part or 35 Ill. Adm. Code 728, or with the conditions of a permit issued under 35 Ill. Adm. Code 702, 703 and 705.

- 2) The analysis may include data developed under 35 Ill. Adm. Code 721, and existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes.

BOARD NOTE: For example, the facility's records of analyses performed on the waste before the effective date of these regulations, or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility, may be included in the data base required to comply with subsection (a)(1). The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part or all of the information required by subsection (a)(1). If the generator does not supply the information, and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.

- 3) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:

- A) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed; and
- B) For off-site facilities, when the results of the inspection required in subsection (a)(4) indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

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- 4) The owner or operator of an off-site facility ~~must~~ shall inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

- b) The owner or operator ~~must~~ shall develop and follow a written waste analysis plan which describes the procedures which it will carry out to comply with subsection (a). The owner or operator ~~must~~ shall keep this plan at the facility. At a minimum, the plan must specify:

- 1) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (a)).

- 2) The test methods which will be used to test for these parameters.

- 3) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

- A) One of the sampling methods described in 35 Ill. Adm. Code 721.Appendix A; or

- B) An equivalent sampling method.

BOARD NOTE: See 35 Ill. Adm. Code 720.121 for related discussion.

- 4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date.

- 5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply.

- 6) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in Sections 724.117, 724.414 and 724.441, and 35 Ill. Adm. Code 728.107. And,

- 7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for:

POLLUTION CONTROL BOARD

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- A) The sampling of impoundment contents;
- B) The analysis of test data; and,

C) The annual removal of residues which are not delisted under 35 Ill. Adm. Code 720.122 ~~and do not~~ or which exhibit a characteristic of hazardous waste, and either:

1) Do-which do- not meet -the-applicable treatment standards of 35 Ill. Adm. Code 728. Subpart D- of- where-; or

ii) Where no treatment standards have been established--the annual removal of residues which do not meet the applicable prohibition levels in 35 Ill. Adm. Code 728. Subpart G--: Such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139; or such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.133(f).

c) For off-site facilities, the waste analysis plan required in subsection (b) must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

- 1) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and
- 2) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

BOARD NOTE: 35 Ill. Adm. Code 703, requires that the waste analysis plan be submitted with Part B of the permit application.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.115 General Inspection Requirements

a) The owner or operator ~~must~~ shall conduct inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator ~~must~~ shall inspect the facility for malfunctions and deterioration, operator errors and discharges which may be causing, or may lead to:

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- 1) Release of hazardous waste constituents to the environment; or
- 2) A threat to human health.

b) Inspection schedule.

1) The owner or operator ~~must~~ shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting or responding to environmental or human health hazards.

2) The owner or operator ~~must~~ shall keep this schedule at the facility.

3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

4) The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in Sections 724.274, ~~-724.293; 724.295-724.299, 724.326, 724.353, 724.354, 724.403, -and -724.447 and 724.702,~~ where applicable.

BOARD NOTE: 35 Ill. Adm. Code 703 requires the inspection schedule to be submitted with Part B of the permit application. The Agency will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Agency may modify or amend the schedule as may be necessary.

c) The owner or operator ~~must~~ shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

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- d) The owner or operator ~~must~~ shall record inspections in an inspection log or summary. The owner or operator ~~must~~ shall keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made and the date and nature of any repairs or other remedial actions.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.118 Location Standards

a) Seismic considerations

- 1) Portions of new facilities where treatment, storage or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time.
- 2) As used in subsection (a)(1):
 - A) "Fault" means a fracture along with rocks on one side have been displaced with respect to those on the other side.
 - B) "Displacement" means the relative movement of any two sides of a fault measured in any direction.
 - C) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

BOARD NOTE: Procedures for demonstrating compliance with this standard in Part B of the permit application are specified in 35 Ill. Adm. Code 703.182. Facilities which are located in political jurisdictions other than those listed in 40 CFR 264, Appendix VI (~~1985-1988~~) are assumed to be in compliance with this requirement.

b) Floodplains.

- 1) A facility located in a 100 year floodplain must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can demonstrate to the Agency's satisfaction that:
 - A) Procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters; or

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- B) For existing surface impoundments, waste piles, land treatment units, ~~and~~ landfills and miscellaneous units, no adverse effect on human health or the environment will result if washout occurs, considering:
 - i) The volume and physical and chemical characteristics of the waste in the facility;
 - ii) The concentration of hazardous constituents that would potentially affect surface waters as a result of washout;
 - iii) The impact of such concentrations on the current or potential uses of and water quality standards established for the affected surface waters; and
 - iv) The impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year floodplain that could result from washout;
- 2) As used in subsection (b)(1):
 - A) "100-year floodplain" means any land area which is subject to a one percent or greater chance of flooding in any given year from any source.
 - B) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.
 - C) "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

BOARD NOTE: Requirements pertaining to other Federal laws which affect the location and permitting of facilities are found in 40 CFR 270.3. For details relative to these laws, see EPA's manual for SEA (special environmental area) requirements for hazardous waste facility permits. Though EPA is responsible for complying with these requirements, applicants are advised to consider them in planning the location of a facility to help prevent subsequent project delays. Facilities may be required to obtain from the Illinois Department of Transportation a permit or certification that a facility is flood-proofed.

- c) Salt dome formations, salt bed formations, underground mines and caves. The placement of any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation,

underground cave or mine is prohibited.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 724.154 Amendment of Contingency Plan

The contingency plan must be reviewed, and immediately amended, if necessary, when:

- a) The facility permit is revised;
- b) The plan fails in an emergency;
- c) The facility changes -- in its design, construction, operation maintenance or other circumstances -- in a way that materially increases the potential for fires, explosions or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency.
- d) The list of emergency coordinators changes; or
- e) The list of emergency equipment changes.

~~BOARD NOTE: A change in the lists of facility emergency coordinators or equipment in the contingency plan constitutes a minor modification to the facility permit to which the plan is a condition.~~

(Source: Amended at 13 Ill. Reg. 18527 effective Nov. 13, 1989)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.173 Operating Record

- a) The owner or operator ~~must~~shall keep a written operating record at the facility.
- b) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
 - 1) A description and the quantity of each hazardous waste received, and the method or methods and date or dates of its treatment, storage or disposal at the facility as required by Appendix A;
 - 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the

location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

BOARD NOTE: See Section 724.219 for related requirements.

- 3) Records and results of waste analyses performed as specified in Sections 724.113, 724.117, 724.414 and 724.441, and in 35 Ill. Adm. Code 728.104(a) and 728.107;

- 4) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 724.156(j);

- 5) Records and results of inspections as required by Section 724.115(d) (except these data need to be kept only three years);

- 6) Monitoring, testing or analytical data and corrective action where required by Subpart F or Sections ~~724.291, 724.293, 724.295, 724.326, 724.353, 724.354, 724.376, 724.378, 724.380, 724.403, 724.409, 724.447 or 724.702.~~

- 7) For off-site facilities, notices to generators as specified in Section 724.112(b);

- 8) All closure cost estimates under Section 724.242 and, for disposal facilities, all post-closure cost estimates under Section 724.244;

- 9) A certification by the permittee, no less often than annually: that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that the permittee generates, to the degree the permittee determines to be economically practicable; and that the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment;

- 10) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, ~~or a petition pursuant to 35 Ill. Adm. Code 106, 728.106 or a certification under 35 Ill. Adm. Code 728.108, and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a)-(g).~~

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- 11) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of ~~the generator or the owner or operator under 35 Ill. Adm. Code 728.107-(a)(1) or 728.108;~~

- 12) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of ~~the generator or the owner or operator under 35 Ill. Adm. Code 728.107-(a)(1) or 728.108;~~

- 13) For an off-site land disposal facility, a copy of the notice and demonstration, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107-(b)(1) and (2) or a copy of the notice and certification required of the generator under 35 Ill. Adm. Code 728.107-(a)(2) or 728.108, whichever is applicable; and

- 14) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107-(a)(2), except for the manifest number, or the information contained in the notice required of the generator or owner or operator under 35 Ill. Adm. Code 728.107-(b)(1) and (2), except for the manifest number, and the certification and demonstration if applicable, required under 35 Ill. Adm. Code 728.108, whichever is applicable.

- 15) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and,

- 16) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section 724.190 Applicability

- a) Types of units.

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- 1) Except as provided in subsection (b), the regulations in this Subpart apply to owners and operators of facilities that treat, store or dispose of hazardous waste. The owner or operator ~~must~~ shall satisfy the requirements identified in subsection (a)(2) for all wastes (or constituents thereof) contained in solid waste management units at the facility regardless of the time at which waste was placed in such units.

- 2) All solid waste management units must comply with the requirements in Section 724.201. A surface impoundment, waste pile, land treatment unit or landfill that receives hazardous waste after July 26, 1982 (hereinafter referred to as a "regulated unit") must comply with the requirements of Sections 724.191 through 724.200 in lieu of Section 724.201 for purposes of detecting, characterizing and responding to releases to the uppermost aquifer. The financial responsibility requirements of Section 724.201 apply to regulated units.

- b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this Subpart if:

- 1) The owner or operator is exempted under Section 724.101; or,
- 2) The owner or operator operates a unit which the Agency finds:
 - A) Is an engineered structure.
 - B) Does not receive or contain liquid waste or waste containing free liquids.
 - C) Is designed and operated to exclude liquid, precipitation and other run-on and run-off.
 - D) Has both inner and outer layers of containment enclosing the waste.
 - E) Has a leak detection system built into each containment layer.
 - F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods, and
 - G) To a reasonable degree of certainty, will not allow hazardous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care

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period.

- 3) The Agency finds, pursuant to Section 724.380(d), that the treatment zone of a land treatment unit that qualifies as a regulated unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of Section 724.378 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption under this paragraph can only relieve an owner or operator of responsibility to meet the requirements of this Subpart during the post-closure care period; or

- 4) The Agency finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified under Section 724.217. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator ~~must~~ shall base any predictions made under this paragraph on assumptions that maximize the rate of liquid migration.

- 5) The owner or operator designs and operates a pile in compliance with Section 724.350(c).

- c) The regulations under this Subpart apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this Subpart;

- 1) Do not apply if all waste, waste residues, contaminated containment system components and contaminated subsoils are removed or decontaminated at closure;
- 2) Apply during the post-closure care period under Section 724.217 if the owner or operator is conducting a detection monitoring program under Section 724.198; or
- 3) Apply during the compliance period under Section 724.196 if the owner or operator is conducting a compliance monitoring program under Section 724.199 or a corrective action program under Section 724.200.

- d) This Subpart applies to miscellaneous units if necessary to comply with Sections 724.701 through 724.703.

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(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.191 Required Programs

- a) Owners and operators subject to this Subpart ~~must~~ shall conduct a monitoring and response program as follows:

- 1) Whenever hazardous constituents under Section 724.193 from a regulated unit are detected at ~~the~~ a compliance point under Section 724.195, the owner or operator ~~must~~ shall institute a compliance monitoring program under Section 724.199 ~~if~~ "Detected" is defined as statistically significant evidence of contamination as described in Section 724.198(f).

- 2) Whenever the groundwater protection standard under Section 724.192 is exceeded, the owner or operator ~~must~~ shall institute a corrective action program under Section 724.200. "Exceeded" is defined as statistically significant evidence of increased contamination as described in Section 724.199(d).

- 3) Whenever hazardous constituents under Section 724.193 from a regulated unit exceed concentration limits under Section 724.194 in groundwater between the compliance point under Section 724.195 and the downgradient facility property boundary, the owner or operator ~~must~~ shall institute a corrective action program under Section 724.200; or

- 4) In all other cases, the owner or operator ~~must~~ shall institute a detection monitoring program under Section 724.198.

- b) The Agency will specify in the facility permit the specific elements of the monitoring and response program. The Agency may include one or more of the programs identified in paragraph (a) in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the Agency will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.192 Groundwater Protection Standard

The owner or operator ~~must~~ shall comply with conditions specified in the

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facility permit that are designed to ensure that hazardous constituents under Section 724.193 ~~are being~~ detected in the groundwater from a regulated unit do not exceed the concentration limits under Section 724.194 in the uppermost aquifer underlying the waste management area beyond the point of compliance under Section 724.195 during the compliance period under Section 724.196. The Agency will establish this groundwater protection standard in the facility permit when hazardous constituents have ~~been~~ been detected in the groundwater ~~from a regulated unit~~.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.197 General Groundwater Monitoring Requirements

The owner or operator ~~must~~ shall comply with the following requirements for any groundwater monitoring program developed to satisfy Section 724.198, 724.199 or 724.200.

- a) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples from the uppermost aquifer that:
 - 1) Represent the quality of background water that has not been affected by leakage from a regulated unit; ~~and~~. A determination of background quality may include sampling of wells that are not hydraulically upgradient from the waste management area where:
 - A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or
 - B) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells. And,
 - 2) Represent the quality of groundwater passing the point of compliance. And,
 - 3) Allow for the detection of contamination when hazardous waste or hazardous constituents have migrated from the hazardous waste management area to the uppermost aquifer.
- b) If a facility contains more than one regulated unit, separate groundwater monitoring systems are not required for each regulated unit provided that provisions for sampling the groundwater in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the groundwater in the uppermost aquifer.

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procedure for determining whether a statistically significant change has occurred. The Agency will specify such a procedure in the facility permit if it finds that the alternative procedure reasonably balances the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in paragraph (b)(2)(A).

- 2) In all other situations in a detection monitoring program and in a compliance monitoring program, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of hazardous constituents from a regulated unit into and through the aquifer will be indicated. The Agency will specify a statistical procedure in the facility permit that it finds:

- A) Is appropriate for the distribution of the data used to establish background values or concentration limits; and
- B) Provides a reasonable balance between the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

9) In detection monitoring or where appropriate in compliance monitoring, data on each hazardous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to groundwater from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which must be specified in the unit permit upon approval by the Agency. This sampling procedure must be:

- 1) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or
- 2) An alternate sampling procedure proposed by the owner or

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- c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater.

- d) The groundwater monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the waste management area. At a minimum the program must include procedures and techniques for:

- 1) Sample collection;
- 2) Sample preservation and shipment;
- 3) Analytical procedures; and
- 4) Chain of custody control.

- e) The groundwater monitoring program must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents in groundwater samples.

- f) The groundwater monitoring program must include a determination of the groundwater surface elevation each time groundwater is sampled.

- g) Where appropriate, the groundwater monitoring program must establish background groundwater quality for each of the hazardous constituents or monitoring parameters specified in the permit.

- 1) In the detection monitoring program under Section 724.198, background groundwater quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

- 2) In the compliance monitoring program under Section 724.199, background groundwater quality for a hazardous constituent must be based on data from upgradient wells that:

- A) Is available before the permit is issued;
- B) Accounts for measurement errors in sampling and analysis; and

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- g) Accounts to the extent feasible for seasonal fluctuations in background groundwater quality if such fluctuations are expected to affect the concentration of the hazardous constituent.

- 3) Background quality may be based on sampling of wells that are not upgradient from the waste management area where:

- A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

- B) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells.

- 4) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background groundwater quality; each time the system is sampled.

- h) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

- 1) If in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 100:

- A) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's t-test as described in Appendix IV. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

- B) The owner or operator may use an equivalent statistical

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operator and approved by the Agency.h)

The owner or operator shall specify one of the following statistical methods to be used in evaluating groundwater monitoring data for each hazardous constituent which, upon approval by the Agency, will be specified in the unit permit. The statistical test chosen must be conducted separately for each hazardous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with subsection (1)(5), the pql must be proposed by the owner or operator and approved by the Agency. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in subsection (1).

1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

4) A control chart approach that gives control limits for each constituent.

5) Another statistical test method submitted by the owner or operator and approved by the Agency.

1) Any statistical method chosen under subsection (h) for specification in the unit permit must comply with the following performance standards, as appropriate:

1) The statistical method used to evaluate groundwater monitoring data must be appropriate for the distribution of chemical parameters of hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory

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test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

2)

If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experimentwise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals or control charts.

3)

If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter value must be proposed by the owner or operator and approved by the Agency if the Agency finds it to be protective of human health and the environment.

4)

If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the Agency if the Agency finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

5)

The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the Agency under subsection (h) which is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

6)

If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

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1) Groundwater monitoring data collected in accordance with subsection (g), including actual levels of constituents, must be maintained in the facility operating record. The Agency shall specify in the permit when the data must be submitted for review.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.198 Detection Monitoring Program

An owner or operator required to establish a detection monitoring program under this Subpart ~~must~~ shall, at a minimum, discharge the following responsibilities:

- a) The owner or operator ~~must~~ shall monitor for indicator parameters (e.g., specific conductance, total organic carbon or total organic halogen), waste constituents or reaction products that provide a reliable indication of the presence of hazardous constituents in groundwater. The Agency will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:
 - 1) The types, quantities and concentrations of constituents in wastes managed at the regulated unit;
 - 2) The mobility, stability and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;
 - 3) The detectability of indicator parameters, waste constituents and reaction products in groundwater; and
 - 4) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the groundwater background.
- b) The owner or operator ~~must~~ shall install a groundwater monitoring system at the compliance point as specified under Section 724.195. The groundwater monitoring system must comply with Sections 724.197(a)(2), 724.197(b) and 724.197(c).
- e) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to subsection (a). The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values.
- 1) The owner or operator must comply with Section 724.197(g) in developing the data base used to determine background values.

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2) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under Section 724.197(h).

3) In taking samples used in the determination of background values, the owner or operator must use a groundwater monitoring system that complies with Section 724.197(a)(1), 724.197(b) and 724.197(e).

d) The owner or operator must determine groundwater quality at each monitoring well at the compliance point at least semi-annually during the active life of a regulated unit (including the closure period) and the post-closure care period. The owner or operator must express the groundwater quality at each monitoring well in a form necessary for the determination of statistically significant increases under Section 724.197(h).

e) The owner or operator shall conduct a groundwater monitoring program for each chemical parameter and hazardous constituent specified in the permit pursuant to subsection (a) in accordance with Section 724.197(g). The owner or operator shall maintain a record of groundwater analytical data as measured and in a form necessary for the determination of statistical significance under Section 724.197(h).

f) The Agency shall specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the permit under subsection (a) in accordance with Section 724.197(g). A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during detection monitoring.

g) The owner or operator ~~must~~ shall determine the groundwater flow rate and direction in the uppermost aquifer at least annually.

h) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of Section 724.197(d) and 724.197(e).

i) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to subsection (a) each time it determines groundwater quality at the compliance point under subsection (d).

1) In determining whether a statistically significant increase has

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decreased, the owner or operator must compare the groundwater quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent according to the statistical procedure specified in the permit under Section 724.197(h).

- 2) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The Agency will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

h) If the owner or operator determines pursuant to subsection (g) that there is a statistically significant increase for parameters or constituents specified pursuant to subsection (a) at any monitoring well at the compliance point, the owner or operator must:

- 1) Notify the Agency of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;
- 2) Immediately sample the groundwater in all monitoring wells and determine whether constituents identified in the list of Appendix I are present and, if so, at what concentrations;
- 3) Establish a background value for each constituent that has been found at the compliance point under subsection (h)(2), as follows:
 - A) The owner or operator must comply with Section 724.197(g) in developing the data base used to determine background values;
 - B) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under Section 724.197(h) and
 - C) In taking samples used in the determination of background values, the owner or operator must use a groundwater monitoring system that complies with Section 724.197(d)(1), 724.197(b) and 724.197(e);
- 4) Within 90 days, submit to the Agency an application for a permit modification to establish a compliance monitoring program meeting the requirements of Section 724.199. The application must include the following information:

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- A) An identification of the concentration of each constituent found in the groundwater at each monitoring well at the compliance point;

- B) Any proposed changes to the groundwater monitoring system at the facility necessary to meet the requirements of Section 724.199;

- C) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods or statistical procedures used at the facility necessary to meet the requirements of Section 724.199.

- B) For each hazardous constituent found at the compliance point, a proposed concentration limit under Section 724.194(a)(1) or 724.194(a)(2) or a notice of intent to seek an alternate concentration limit for a hazardous constituent under Section 724.194(b); and

- 5) Within 180 days, submit to the Agency:

- A) All data necessary to justify any alternate concentration limit for a hazardous constituent sought under Section 724.194(b); and

- B) An engineering feasibility plan for a corrective action program necessary to meet the requirements of Section 724.200, unless:

- i) All hazardous constituents identified under subsection (h)(2) are listed in Table 1 of Section 724.194 and their concentrations do not exceed the respective values given in that Table; or

- ii) The owner or operator has sought an alternate concentration limit under Section 724.194(b) for every hazardous constituent identified under subsection (h)(2);

- i) If the owner or operator determines pursuant to subsection (g) that there is a statistically significant increase of parameters or constituents specified pursuant to subsection (a) at any monitoring well at the compliance point, the owner or operator may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to or in lieu of submitting a

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permit modification application under subsection (h)(4), the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in subsection (h)(4) unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. If the demonstration is unsuccessful, the Agency shall notify the owner or operator in writing with a statement as to why it determined the demonstration to have been unsuccessful. Such demonstration denial may be appealed to the Board pursuant to 35 Ill. Adm. Code 105. Such appeal will not excuse compliance with the facility permit, or delay any permit modification proceedings. In making a demonstration under this paragraph, the owner or operator must:

- 1) Notify the Agency in writing within seven days of determining a statistically significant increase at the compliance point that the owner or operator intends to make a demonstration under this paragraph;
 - 2) Within 90 days submit a report to the Agency which demonstrates that a source other than a regulated unit caused the increases or that the increase resulted from error in sampling, analysis or evaluation;
 - 3) Within 90 days submit to the Agency an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and
 - 4) Continue to monitor in accordance with the detection monitoring program established under this section.
- If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, the owner or operator must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.
- k) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the groundwater protection standard under Section 724.192 are taken during the term of the permit.
- l) The owner or operator shall determine whether there is statistically significant evidence of contamination for any chemical parameter or hazardous constituent specified in the permit pursuant to subsection (a) at a frequency specified under subsection (d).

- 1) In determining whether statistically significant evidence of

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contamination exists, the owner or operator shall use the method(s) specified in the permit under Section 724.192(h). These method(s) must compare data collected at the compliance point(s) to the background groundwater quality data.

- 2) The owner or operator shall determine whether there is statistically significant evidence of contamination at each monitoring well at the compliance point within a reasonable period of time after completion of sampling. The Agency shall specify in the facility permit what period of time is reasonable, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

g) If the owner or operator determines pursuant to subsection (f) that there is statistically significant evidence of contamination for chemical parameters or hazardous constituents specified pursuant to subsection (a) at any monitoring well at the compliance point, the owner or operator shall:

- 1) Notify the Agency of this finding in writing within seven days. The notification must indicate what chemical parameters or hazardous constituents have shown statistically significant evidence of contamination.
- 2) Immediately sample the groundwater in all monitoring wells and determine whether constituents in the list of Appendix I are present, and if so, in what concentration.
- 3) For any Appendix I compounds found in the analysis pursuant to subsection (g)(2), the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to subsection (g)(2), the hazardous constituents found during this initial Appendix I analysis will form the basis for compliance monitoring.
- 4) Within 90 days, submit to the Agency an application for a permit modification to establish a compliance monitoring program meeting the requirements of Section 724.199. The application must include the following information:
 - A) An identification of the concentration of any Appendix I constituent detected in the groundwater at each monitoring well at the compliance point;

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B) Any proposed changes to the groundwater monitoring system at the facility necessary to meet the requirements of Section 724.199;

C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of Section 724.199;

D) For each hazardous constituent detected at the compliance point, a proposed concentration limit under Section 724.194(a)(1) or (a)(2), or a notice of intent to seek an alternate concentration limit under Section 724.194(b); and

5) Within 180 days, submit to the Agency:

A) All data necessary to justify an alternate concentration limit sought under Section 724.194(b); and

B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of Section 724.200, unless:

1) All hazardous constituents identified under subsection (g)(2) are listed in Table 1 of Section 724.194 and their concentrations do not exceed the respective values given in that table; or

ii) The owner or operator has sought an alternate concentration limit under Section 724.194(b) for every hazardous constituent identified under subsection (g)(2).

6) If the owner or operator determines, pursuant to subsection (f), that there is a statistically significant difference for chemical parameters or hazardous constituents specified pursuant to subsection (a) at any monitoring well at the compliance point, the owner or operator may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis or statistical evaluation, or natural variation in the groundwater. The owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under subsection (g)(4); however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in subsection (g)(4) unless the demonstration made under this paragraph successfully shows that a source other

other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis or evaluation. In making a demonstration under this subsection the owner or operator shall:

A) Notify the Agency in writing, within seven days of determining statistically significant evidence of contamination at the compliance point, that the owner or operator intends to make a demonstration under this paragraph;

B) Within 90 days, submit a report to the Agency which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis or evaluation;

C) Within 90 days, submit to the Agency an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

D) Continue to monitor in accordance with the detection monitoring program established under this Section.

h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this Section, the owner or operator shall, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.199 Compliance Monitoring Program

An owner or operator required to establish a compliance monitoring program under this Subpart ~~must~~ shall, at a minimum, discharge the following responsibilities:

a) The owner or operator ~~must~~ shall monitor the groundwater to determine whether regulated units are in compliance with the groundwater protection standard under Section 724.192. The Agency will specify the groundwater protection standard in the facility permit, including:

1) A list of the hazardous constituents identified under Section 724.193;

2) Concentration limits under Section 724.194 for each of those hazardous constituents;

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- 3) The compliance point under Section 724.195; and
- 4) The compliance period under Section 724.196.
- b) The owner or operator must-shall install a groundwater monitoring system at the compliance point as specified under Section 724.195. The groundwater monitoring system must comply with Section 724.197(a)(2), 724.197(b) and 724.197(c).

e) Where a concentration limit established under subsection (a)(2) is based on background groundwater quality, the Agency will specify the concentration in the permit as follows:

1) If there is a high temporal correlation between upgradient and compliance point concentrations of the hazardous constituents, the owner or operator may establish the concentration limit through sampling at upgradient wells each time groundwater is sampled at the compliance point. The Agency will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the hazardous constituent.

2) If a hazardous constituent is identified on Table 1 under Section 724.194 and the difference between the respective concentration limit in Table 1 and the background value of the constituent under Section 724.197(g) is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use a statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

- A) Be appropriate for the distribution of the data used to establish background values; and
- B) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference.
- 3) The owner or operator must:
- A) Comply with Section 724.197(g) in developing the data base used to determine background values;
- B) Express background values in a form necessary for the

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- d) determination of statistically significant increases under Section 724.197(h); and
- 6) Use a groundwater monitoring system that complies with Section 724.197(a)(1); 724.197(b) and 724.197(e);--

c) The Agency shall specify the sampling procedures and statistical methods appropriate for the constituents and facility, consistent with Section 724.197(g) and (h).

1) The owner or operator shall conduct a sampling program for each chemical parameter or hazardous constituent in accordance with Section 724.297(g).

2) The owner or operator shall record groundwater analytical data as measured and in a form necessary for the determination of statistical significance under Section 724.197(h) for the compliance period of the facility.

d) The owner or operator must determine the concentration of hazardous constituents in groundwater at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under Section 724.197(h);--

d) The owner or operator shall determine whether there is statistically significant evidence of increased contamination for any chemical parameter or hazardous constituent specified in the permit, pursuant to subsection (a), at a frequency specified under subsection (f).

1) In determining whether statistically significant evidence of increased contamination exists, the owner or operator shall use the methods specified in the permit under Section 724.197(h). The methods must compare data collected at the compliance points to a concentration limit developed in accordance with Section 724.194.

2) The owner or operator shall determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of the sampling. The Agency shall specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

e) The owner or operator must-shall determine the groundwater flow rate

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and direction in the uppermost aquifer at least annually.

4) The owner or operator must analyze samples from all monitoring wells at the compliance point to determine whether constituents identified in the list of Appendix I are present and, if so, at what concentration. The analysis must be conducted at least annually to determine whether additional Appendix I constituents are present in the uppermost aquifer. If the owner or operator finds constituents from Appendix I in the groundwater that are not identified in the permit as monitoring constituents, the owner or operator must report the concentrations of these additional constituents to the Agency within seven days after completion of the analysis.

f) The Agency shall specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with Section 724.197(g). A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during the compliance period for the facility.

g) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of Section 724.197(d) and 724.197(e).

h) The owner or operator shall analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix I at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in Section 724.198(f). If the owner or operator finds Appendix I constituents in the groundwater that are not already identified as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix I analysis. If the second analysis confirms the presence of new constituents, the owner or operator shall report the concentration of these additional constituents to the Agency within seven days after the completion of the second analysis, and add them to the monitoring list. If the owner or operator chooses not to resample, then the owner or operator shall report the concentrations of these additional constituents to the Agency within seven days after completion of the initial analysis, and add them to the monitoring list.

i) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any hazardous constituents specified in the permit pursuant to subsection (a) each time the owner or operator determines the concentration of hazardous constituents in groundwater at the compliance point.

j) In determining whether a statistically significant increase has

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occurred, the owner or operator must compare the groundwater quality at each monitoring well at the compliance point for each hazardous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under Section 724.197(h).

2) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance points within a reasonable time period after completion of sampling. The Agency will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

3) If the owner or operator determines, pursuant to subsection (h-d) that the groundwater protection standard is any concentration limits under Section 724.194 are being exceeded at any monitoring well at the point of compliance, the owner or operator must shall:

1) Notify the Agency of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded.

2) Submit to the Agency an application for a permit modification to establish a corrective action program meeting the requirements of Section 724.200 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the Agency under Section 724.198(h)(5). The application must at a minimum include the following information:

A) A detailed description of corrective actions that will achieve compliance with the groundwater protection standard specified in the permit under subsection (a); and

B) A plan for a groundwater monitoring program that will demonstrate the effectiveness of the corrective action. Such a groundwater monitoring program may be based on a compliance monitoring program developed to meet the requirements of this section.

j) If the owner or operator determines, pursuant to subsection (h-d), that the groundwater protection standard is concentration limits under this Section are being exceeded at any monitoring well at the point of compliance, the owner or operator may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to or in lieu of submitting a permit

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modification application under subsection (1)(2), the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in subsection (1)(2) unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation, contamination or that the detection is an artifact caused by an error in sampling, analysis or statistical evaluation, or natural variation in groundwater. In making a demonstration under this paragraph, the owner or operator must shall:

- 1) Notify the Agency in writing within seven days that it intends to make a demonstration under this paragraph;
- 2) Within 90 days, submit a report to the Agency which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;
- 3) Within 90 days, submit to the Agency an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and
- 4) Continue to monitor in accord with the compliance monitoring program established under this section.

* 1) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, the owner or operator must shall, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

- 1) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the groundwater protection standard under Section 724.192 are taken during the term of the permit.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART G: CLOSURE AND POST-CLOSURE

Section 724.211 Closure Performance Standard

The owner or operator shall close the facility in a manner that:

- a) Minimizes the need for further maintenance; and

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b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

c) Complies with the closure requirements of this Part including, but not limited to, the requirements of Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, and 724.451 through 724.703.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.212 Closure Plan; Amendment of Plan

a) Written Plan.

1) The owner or operator of a hazardous waste management facility shall have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by Sections 724.328(c)(1)(A) and 724.358(c)(1)(A) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with 35 Ill. Adm. Code 703.183, and approved by the Agency as part of the permit issuance proceeding under 35 Ill. Adm. Code 705. In accordance with 35 Ill. Adm. Code 703.241, the approved closure plan will become a condition of any RCRA permit.

2) The Agency's approval of the plan must ensure that the approved closure plan is consistent with Sections 724.211 through 724.215 and the applicable requirements of Sections 724.190 et seq., 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, and 724.451 and 724.701. Until final closure is completed and certified in accordance with Section 724.215, a copy of the approved plan and all approved revisions to the plan must be furnished to the Agency upon request, including request by mail.

b) Content of plan. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:

- 1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 724.211;
- 2) A description of how final closure of the facility will be

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- 3) conducted in accordance with Section 724.211. The description must identify the maximum extent of the operations which will be unclosed during the active life of the facility; and
- 4) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing or disposing of all hazardous wastes, and identification of the type(s) of off-site hazardous waste management units to be used, if applicable; and
- 5) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils and criteria for determining the extent of decontamination required to satisfy the closure performance standard; and
- 6) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control; and
- 7) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat and dispose of all hazardous waste inventory and of the time required to place a final cover must be included.)
- 8) For facilities that use trust funds to establish financial assurance under Section 724.243 or 724.245 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.
- 9) Amendment of the plan. The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design or the approved closure plan in accordance with the applicable procedures in 35 Ill. Adm. Code 702, 703 and 705. The written notification or request must include a copy of the amended closure plan for review or approval by

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- the Agency.
- 1) The owner or operator may submit a written notification or request to the Agency for a permit modification to amend the closure plan at any time prior to notification of partial or final closure of the facility.
 - 2) The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:
 - A) Changes in operating plans or facility design affect the closure plan, or
 - B) There is a change in the expected year of closure, if applicable.
 - C) In conducting partial or final closure activities, unexpected events require modification of the approved closure plan.
 - 3) The owner or operator shall submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in the facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under Sections 724.328(c)(1)(A) or 724.358(c)(1)(A), shall submit an amended closure plan to the Agency no later than 60 days after the date the owner or operator or Agency determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Section 724.410, or no later than 30 days after that date if the determination is made during partial or final closure. The Agency shall approve, disapprove or modify this amended plan in accordance with the procedures in 35 Ill. Adm. Code 702, 703 and 705. In accordance with 35 Ill. Adm. Code 702.160 and 703.241, the approved closure plan will become a condition of any RCRA permit issued.
 - 4) The Agency may request modifications to the plan under the conditions described in Section 724.212(c)(2). The owner or operator shall submit the modified plan within 60 days after the Agency's request, or within 30 days if the change in facility

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conditions occurs during partial or final closure. Any modifications requested by the Agency shall be approved in accordance with the procedures in 35 Ill. Adm. Code 702, 703 and 705.

d) Notification of partial closure and final closure.

- 1) The owner or operator shall notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator shall notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

- 2) The date when the owner or operator "expects to begin closure" must be either no later than 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Agency shall approve an extension to this one-year limit.

- 3) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or Board order to cease receiving hazardous wastes or to close, then the requirements of this subsection do not apply. However, the owner or operator shall close the facility in accordance with the deadlines established in Section 724.213.

- e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

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Section 724.214 Disposal or Decontamination of Equipment, Structures and Soils

During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in Sections 724.297, 724.328, 724.358, 724.380-~~5~~ or 724.410, or under the authority of Sections 724.701 and 724.703. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.217 Post-closure Care and Use of Property

a) Post-closure care period.

- 1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections 724.217 through 724.220 must begin after completion of closure of the unit and continue for 30 years after that date and must consist of at least the following:

- A) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, ~~N~~ and X; and
- B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, ~~N~~ and X.

- 2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure care period for a particular unit,

- A) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Board finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology or alternative disposal, treatment or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

- B) Extend the post-closure care period applicable to the

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hazardous waste management unit or facility if the Board finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

C) Reduction or extension of the post-closure care period will be by rulemaking pursuant to 35 Ill. Adm. Code 102.

b) The Agency shall require, at partial or final closure, continuation of any of the security requirements of Section 724.114 during part or all of the post-closure period when:

- 1) Hazardous wastes may remain exposed after completion of partial or final closure; or
- 2) Access by the public or domestic livestock may pose a hazard to human health.

c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s) or any other components of the containment system, or the function of the facility's monitoring systems, unless the Agency finds, by way of a permit modification, that the disturbance:

- 1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or
- 2) Is necessary to reduce a threat to human health or the environment.

d) All the post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in Section 724.218.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.218 Post-closure Plan; Amendment of Plan

a) Written Plan. The owner or operator of a hazardous waste disposal unit shall have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by Sections 724.328 (c)(1)(B) and 724.358 (c)(1)(B) to have contingent-~~y~~- post-closure plans. Owners or

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operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under Sections 724.328(c)(1)(B) or 724.358(c)(1)(B) shall submit a post-closure plan to the Agency within 90 days from the date that the owner or operator or Agency determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Sections 724.217 through 724.220. The plan must be submitted with the permit application, in accordance with 35 Ill. Adm. Code 703.183, and approved by the Agency as part of the permit issuance proceeding under 35 Ill. Adm. Code 705. In accordance with 35 Ill. Adm. Code 703.241, the approved post-closure plan will become a condition of any RCRA permit issued.

b) For each hazardous waste management unit subject to the requirements of this Section, the post-closure plan must identify the activities that will be carried on after closure and the frequency of these activities, and include at least:

- 1) A description of the planned monitoring activities and frequencies which they will be performed to comply with Subparts F, K, L, M₁, ~~and N~~ and X during the post-closure care period;
- 2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:
 - A) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts F, K, L, M₁, ~~and N~~ and X; and
 - B) The function of the facility monitoring equipment in accordance with the requirements of Subparts F, K, L, M₂, ~~and N~~ and X; and
- 3) The name, address and phone number of the person or office to contact about the hazardous disposal unit during the post-closure period.

c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the Agency upon request, including request by mail. After final closure has been certified, the person or office specified in subsection (b)(3) shall keep the approved post-closure plan during the remainder of the post-closure period.

d) Amendment of plan. The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of 35 Ill. Adm. Code 703 and 705. The written notification or request must include a copy of the amended

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post-closure plan for review or approval by the Agency.

- 1) The owner or operator may submit a written notification or request to the Agency for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.
- 2) The owner or operator shall submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan whenever
 - A) Changes in operating plans or facility design affect the post-closure plan; or
 - B) There is a change in the expected year of closure if applicable; or
 - C) Events occur during the active life of the facility, including partial and final closures, which affect the approved post-closure plan.
- 3) The owner or operator shall submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to submit a contingent post-closure plan under Sections 724.328(c)(1)(B) or 724.358(c)(1)(B) shall submit a post-closure plan to the Agency no later than 90 days after the date that the owner or operator or Agency determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Section 724.410. The Agency shall approve, disapprove or modify this plan in accordance with the procedure in 35 Ill. Adm. Code 703 and 705. In accordance with 35 Ill. Adm. Code 703.241, the approved post-closure plan will become a permit condition.
- 4) The Agency may request modifications to the plan under the conditions described in subsection (d)(2). The owner or operator shall submit the modified plan no later than 60 days after the request, or no later than 90 days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the Agency shall be approved, disapproved or modified in accordance with the procedure in 35 Ill. Adm. Code 703 and 705.

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(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.241 Definitions of Terms As Used In This Subpart

- a) "closure plan" means the plan for closure prepared in accordance with the requirements of Section 724.212.
- b) "Current closure cost estimate" means that the most recent of the estimates prepared in accordance with Section-s- 724.242(a), (b) and (c).
- c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Section-s- 724.244(a), (b) and (c).
- d) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 724.217 through 724.220.
- f) The following terms are used in the specifications for the financial test for closure, post-closure care and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.
 - "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.
 - "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.
 - "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.
 - "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b) and (c).

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"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

9) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable state law. However, these terms do not include those liabilities which are consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from 40 CFR 264.141 (1988), as amended at 53 Fed. Reg. 33950, September 1, 1988, modified to insert the Insurance Services Office definition.

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"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous or thermal contaminants, irritants or pollutants.

BOARD NOTE: This term is used in the definition of "pollution incident".

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Non sudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste.

BOARD NOTE: This definition is used in the definition of "pollution incident".

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release or escape results in "environmental damage". The entirety of any such emission, discharge, release or escape shall be deemed to be one "pollution incident". "Waste" includes materials to be recycled, reconditioned or reclaimed. The term "pollution incident" includes an "occurrence".

BOARD NOTE: This definition is used in the definition of "property damage".

"Property damage" means

Either:

Physical injury to, destruction of or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of a "pollution incident".

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This term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

BOARD NOTE: Derived from 40 CFR 264.141 (1988), as amended at 53 Fed. Reg. 33950, September 1, 1988, modified to insert the Insurance Services Office definition.

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

h) "Substantial business relationship" means that one business entity has an ownership interest in another.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.242 Cost Estimate for Closure

a) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 724.211 through 724.215 and applicable closure requirements in Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, and 724.451 and 724.701 through 724.703.

1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 724.212(b)); and

2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in Section 724.241(d)). The owner or operator may use costs for on-site disposal if the owner or operator can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

3) The closure cost estimate must not incorporate any salvage value that may be realized with the sale of hazardous wastes, facility structures or equipment, land or other assets associated with the facility at the time of partial or final closure.

4) The owner or operator shall not incorporate a zero cost for hazardous wastes that might have economic value.

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b) During the active life of the facility, the owner or operator shall adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Section 724.243. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Agency as specified in Section 724.243(f)(3). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business as specified in subsections (b)(1) and (b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

c) During the active life of the facility the owner or operator shall revise the closure cost estimate no later than 30 days after the Agency has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in Section 724.242(b).

d) The owner or operator shall keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with Sections 724.242(a) and (c) and, when this estimate has been adjusted in accordance with Section 724.242(b), the latest adjusted closure cost estimate.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.244 Cost Estimate for Post-closure Care

a) The owner or operator of a disposal surface impoundment, disposal miscellaneous unit, land treatment unit, ~~or~~ landfill unit, or of a surface impoundment or waste pile required under Sections 724.328 or 724.358 to prepare a contingent closure and post-closure plan shall have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in Sections

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724.217 through 724.220, 724.328, 724.358, 724.380, and -724.410 and 724.603.

- 1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in Section 724.211(d)).
- 2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Section 724.217.
- b) During the active life of the facility, the owner or operator shall adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Section 724.245. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the Agency as specified in Section 724.245(f)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business as specified in subsections (b)(1) and (b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.
 - 1) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.
 - 2) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.
- c) During the active life of the facility the owner or operator shall revise the post-closure cost estimate within 30 days after the Agency has approved a request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in Section 724.244(b).
- d) The owner or operator shall keep the following at the facility during the operating life of the facility: The latest post-closure cost estimate prepared in accordance with Section 724.244(a) and (c) and, when this estimate has been adjusted in accordance with Section

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724.244(b), the latest adjusted post-closure cost estimate.

(Source: Amended at 13 Ill. Reg. 18527 effective Nov. 13, 1989)

Section 724.247 Liability Requirements

- a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage or disposal facility, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated ~~in one of three ways~~ as specified in subsections (a)(1), (a)(2), and (a)(3) (a)(4), (a)(5) or (a)(6):
 - 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this ~~paragraph~~ subsection.
 - A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in Section 724.251. The wording of the certificate of insurance must be as specified in Section 724.251. The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator shall provide a signed duplicate original of the insurance policy. An owner or operator of a new facility shall submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste.
 - B) Each insurance policy must be issued by an insurer which ~~at a minimum is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states~~ is licensed by the Illinois Department of Insurance.
- 2) An owner or operator may meet the requirements of this Section by passing a financial test or using the ~~corporate~~ guarantee

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for liability coverage as specified in subsection-5 (f) and-
(g).

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage as specified in subsection (h).

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage as specified in subsection (i).

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage as specified in subsection (j).

6) An owner or operator may demonstrate the required liability coverage through the use of ~~the combinations of insurance, financial test, insurance, the separate guarantee, a combination of the financial test and insurance or a combination of the separate guarantee and insurance-letter of credit, surety bond and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor.~~ The amounts of coverage demonstrated must total at least the minimum amounts required by this ~~sub~~-Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.

7) An owner or operator shall notify the Agency within 30 days:

A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or

B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, ~~or~~ land treatment facility or miscellaneous disposal unit which is used to manage hazardous waste,

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or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate. This liability coverage may be demonstrated ~~in one of three ways~~ as specified in subsections (b)(1), (b)(2), ~~and~~ (b)(3), (b)(4), (b)(5) or (b)(6):

1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in Section 724.251. The wording of the certificate of insurance must be as specified in Section 724.251. The owner or operator ~~must~~ shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator shall provide a signed duplicate original of the insurance policy. An owner or operator of a new facility shall submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste.

B) Each insurance policy must be issued by an insurer which ~~is a member of the Illinois Department of Insurance~~ is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states ~~is licensed by the Illinois Department of Insurance~~.

2) An owner or operator may meet the requirements of this Section

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by passing a financial test or using the ~~separate~~-guarantee for liability coverage as specified in subsections (f) and (g).

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage as specified in subsection (h).

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage as specified in subsection (i).

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage as specified in subsection (j).

6) An owner or operator may demonstrate the required liability coverage through the use of ~~the~~ combinations of insurance, financial test, ~~insurance~~, the ~~separate~~-guarantee, ~~a combination of the financial test and insurance or a combination of the separate guarantee and insurance~~-letter of credit, surety bond and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this ~~sub~~-Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.

7) An owner or operator shall notify the Agency within 30 days:

A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or

B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) are not

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consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted to the Agency as part of the application under 35 Ill. Adm. Code 703.182 for a facility that does not have a permit, or pursuant to the procedures for permit modification under 35 Ill. Adm. Code 705.128 for a facility that has a permit. If granted, the modification will take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b). Any request for an adjusted level of required liability coverage for a permitted facility will be treated as a request for a permit modification under 35 Ill. Adm. Code 702.184(e)(3) and 705.128.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Agency shall adjust the level of financial responsibility required under subsection (a) or (b) as may be necessary to protect human health and the environment. This adjusted level ~~shall~~-must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b). An owner or operator shall furnish to the Agency, within a time specified by the Agency in the request, which ~~shall~~-must be not be less than 30 days, any information which the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under 35 Ill. Adm. Code 702.184(e)(3) and 705.128.

e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency shall notify the owner or operator

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in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.

f) Financial test for liability coverage.

- 1) An owner or operator may satisfy the requirements of this Section by demonstrating that it passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of subsection (f)(1)(A) or (f)(1)(B):

A) The owner or operator shall have:

- i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and
- ii) Tangible net worth of at least \$10 million; and
- iii) Assets in the United States amounting to either: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator shall have:

- i) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's, or Aaa, Aa, A or Baa as issued by Moody's; and
- ii) Tangible net worth of at least \$10 million; and
- iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and
- iv) Assets in the United States amounting to either: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

- 2) The phrase "amount of liability coverage" as used in subsection (f)(1) refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b).

- 3) To demonstrate that it meets this test, the owner or operator

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shall submit the following three items to the Agency:

- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by Sections 724.243(f), 724.245(f), 725.243(e) and 725.245(e), and liability coverage, it shall submit the letter specified in Section 724.251 to cover both forms of financial responsibility; a separate letter as specified in Section 724.251 is not required.

- B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

- C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

- i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

- ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.

- 4) An owner or operator of a new facility shall submit the items specified in subsection (f)(3) to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal.

- 5) After the initial submission of items specified in subsection (f)(3), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3).

- 6) If the owner or operator no longer meets the requirements of subsection (f)(1), the owner or operator shall obtain insurance for the entire amount of required liability coverage as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the

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owner or operator no longer meets the test requirements.

- 7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency shall evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in this Section within 30 days after notification of disallowance.

g) ~~Seperate~~ g-guarantee for liability coverage.

- 1) Subject to subsection (g)(2), an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "~~seperate~~ g-guarantee." The guarantor ~~must~~ shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor ~~must~~ shall meet the requirements for owners and operators in subsections (f)(1) through (f)(7-6). The wording of the ~~seperate~~ g-guarantee must be as specified in Section 724.251. A certified copy of the ~~seperate~~ g-guarantee must accompany the items sent to the Agency as specified in subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the ~~seperate~~ g-guarantee must provide that:

- A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this ~~seperate~~ g-guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

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- B) The ~~seperate~~ g-guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee ~~shall~~ must not be terminated unless and until the Agency approves alternate liability coverage complying with Section 724.247 or 35 Ill. Adm. Code 725.247.

- 2) The guarantor shall execute the guarantee in Illinois. The guarantee shall be accompanied by a letter signed by the guarantor which states that:

- A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
- B) The guarantee is governed by Illinois law; and
- C) The name and address of the guarantor's registered agent for service of process.

- 3) The guarantor shall have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 (Ill. Rev. Stat. 1987, ch. 32, par. 5.05) or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 (Ill. Rev. Stat. 1987, ch. 32, par. 105.05).

h) Letter of credit for liability coverage.

- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.

- 2) The financial institution issuing the letter of credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

- 3) The wording of the letter of credit must be as specified in Section 724.251.

1) Surety bond for liability coverage.

- 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this subsection and submitting a copy of the bond to the Agency.

- 2) The surety company issuing the bond shall be licensed by the

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Illinois Department of Insurance.

- 3) The wording of the surety bond must be as specified in Section 724.251.

2) Trust fund for liability coverage.

- 1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund which conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.

- 2) The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act. (Ill. Rev. Stat., 1987, ch. 17, par. 1561-1 et seq.)

- 3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, shall either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage which is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

- 4) The wording of the trust fund must be as specified in Section 724.251.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.251 Wording of the Instruments

The Board incorporates by reference 40 CFR 264.151 ~~-(1987)~~ as amended at 52 Fed. Reg. 44313, November 18, 1987 ~~-(1988)~~, as amended at 53 Fed. Reg. 33950, September 1, 1988. This Section incorporates no later amendments or

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editions. The Agency shall promulgate standardized forms based on 40 CFR 264.151 with such changes in wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Subpart shall do so only upon the standardized forms promulgated by the Agency. The Agency shall reject any financial assurance document which is not submitted on such standardized forms.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART J: TANK SYSTEMS

Section 724.290 Applicability

The requirements of this Subpart apply to owners and operators of facilities that use tank systems for treating or storing hazardous waste, except as otherwise provided in subsections (a) or (b) or in Section 724.101.

- a) Tank-- systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in Section 724.293. To demonstrate the absence or presence of free liquids in the stored or treated waste, EPA Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes Physical/Chemical Methods" EPA Publication No. SW-846), incorporated by reference in 35 Ill. Adm. Code 720.111, must be used.

- b) Tank-- systems, including sumps, as defined in 35 Ill. Adm. Code 720.110, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Section 724.293(a).

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.293 Containment and Detection of Releases

- a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in subsection (f) and (g)).

- 1) For all new tank systems or components, prior to their being put into service;
- 2) For all existing tank systems used to store or treat Hazardous Waste Numbers F020, F021, F022, F023, F026 or F027, as defined in 35 Ill. Adm. Code 721.131, within two years after January 12, 1987;

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- 3) For those existing tank systems of known and documented age, within two years after January 12, 1987, or when the tank system has reached 15 years of age, whichever comes later;
 - 4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and
 - 5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within the time intervals required in subsections (a)(1) through (a)(4), except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987.
- b) Secondary containment systems must be:
- 1) Designed, installed and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater or surface water at any time during the use of the tank system; and
 - 2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
- c) To meet the requirements of subsection (b), secondary containment systems must be at a minimum:
- 1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions and the stress of daily operation (including stresses from nearby vehicular traffic);
 - 2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression or uplift;
 - 3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest

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- practicable time if the owner or operator demonstrates, by way of permit application, to the Agency that existing detection technologies or site conditions will not allow detection of a release within 24 hours; and
- 4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator demonstrates to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.
- BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through 725. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Work (POTW), it is subject to the requirements of Section 307 of the Clean Water Act, as amended-35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of -40 CFR 302 (4986)-35 Ill. Adm. Code 750.410 and 40 CFR 302.6, incorporated by reference in 35 Ill. Adm. Code 720.111.
- d) Secondary containment for tanks must include one or more of the following devices:
- 1) A liner (external to the tank);
 - 2) A vault;
 - 3) A double-walled tank; or
 - 4) An equivalent device as approved by the Board in an adjusted standards proceeding.
- e) In addition to the requirements of subsections (b), (c) and (d), secondary containment systems must satisfy the following requirements:
- 1) External liner systems must be:

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- A) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary.
 - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.
 - C) Free of cracks or gaps; and
 - D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e. capable of preventing lateral as well as vertical migration of the waste).
- 2) Vault systems must be:
- A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
 - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
 - C) Constructed with chemical-resistant water stops in place at all joints (if any);
 - D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
 - E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:
 - i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or
 - ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123, and may form an ignitable or explosive vapor;

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- F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.
- 3) Double-walled tanks must be:
- A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;
 - B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and
 - C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours, or at the earliest practicable time, if the owner or operator demonstrates, by way of permit application, to the Agency that the existing detection technology or site conditions would not allow detection of a release within 24 hours.
- BOARD NOTE: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks", incorporated by reference in 35 Ill. Adm. Code 720.111, may be used as guidelines for aspects of the design of underground steel double-walled tanks.
- f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of subsections (b) and (c), except for:
 - 1) Aboveground piping (exclusive of flanges, joints, valves and other connections) that are visually inspected for leaks on a daily basis;
 - 2) Welded flanges, welded joints and welded connections, that are visually inspected for leaks on a daily basis;
 - 3) Seamless or magnetic coupling pumps and seamless valves, that are visually inspected for leaks on a daily basis; and
 - 4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.
- g) Pursuant to Section 28.1 of the Environmental Protection Act, and in

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accordance with 35 Ill. Adm. Code 106. Subpart D, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g)(2).

- 1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:
 - A) The nature and quantity of the wastes;
 - B) The proposed alternate design and operation;
 - C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and groundwater; and
 - D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.
- 2) When determining whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:
 - A) The potential adverse effects on groundwater, surface water and land quality taking into account:
 - i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;
 - ii) The hydrogeological characteristics of the facility and surrounding land;

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- iii) The potential for health risk caused by human exposure to waste constituents;
 - iv) The potential for damage to wildlife, crops, vegetation and physical structures caused by exposure to waste constituents; and
 - v) The persistence and permanence of the potential adverse effects.
- B) The potential adverse effects of a release on groundwater quality, taking into account:
 - i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The proximity and withdrawal rates of groundwater users;
 - iii) The current and future uses of groundwater in the area; and
 - iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.
- C) The potential adverse effects of a release on surface water quality, taking into account:
 - i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The patterns of rainfall in the region;
 - iii) The proximity of the tank system to surface waters;
 - iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and
 - v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality.
- D) The potential adverse effect of a release on the land surrounding the tank system, taking into account:
 - i) The patterns of rainfall in the region; and

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- 3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system but which has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), shall:
- ti) The current and future uses of the surrounding land.
- 4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system and which has migrated beyond the zone of engineering control (as established in the alternative design and operating practices), shall:
- A) Comply with the requirements of Section 724.296(a),(b),(c) and (d); and
 - B) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator shall comply with the requirements of Section 724.297(b); and

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- c) If repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (a) through (f), or make the alternative design and operating practices demonstration to the Board again, and meet the requirements for new tank systems in Section 724.292 if the tank system is replaced. The owner or operator shall comply with these requirements even if contaminated soil is decontaminated or removed and groundwater or surface water has not been contaminated.
- h) In order to make an alternative design and operating practices, the owner or operator shall follow the following procedures in addition to those specified in 35 Ill. Adm. Code 106.5ubpart D:
- 1) The owner or operator shall file a petition for approval of alternative design and operating practices according to the following schedule:
 - A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a).
 - B) For new tank systems, at least 30 days prior to entering into a contract for installation.
 - 2) As part of the petition, the owner or operator shall also submit to the Board:
 - A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsections (g)(1) or (g)(2); and
 - B) The portion of the Part B permit application specified in 35 Ill. Adm Code 703.202.
 - 3) The owner or operator shall complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.
 - 4) The Agency shall issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.
- i) All tank systems, until such time as secondary containment that meets

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the requirements of this Section is provided, must comply with the following:

- 1) For non-enterable underground tanks, a leak test that meets the requirements of Section 724.291(b)(5) or other tank integrity methods, as approved or required by the Agency, must be conducted at least annually.
 - 2) For other than non-enterable underground tanks, the owner or operator ~~must~~ shall either:
 - A) Conduct a leak test as in subsection (i)(1), or
 - B) Develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks and corrosion or erosion that may lead to cracks and leaks. The owner or operator ~~must~~ shall remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection and the characteristics of the waste being stored or treated.
 - 3) For ancillary equipment, a leak test or other integrity assessment as approved by the Agency must be conducted at least annually.
- BOARD NOTE: The practices described in the API Publication, Guide for Inspection of Refinery Equipment, Chapter XII, "Atmospheric and Low-Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.
- 4) The owner or operator shall maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3).
 - 5) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3), the owner or operator shall comply with the requirements of Section 724.296.

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(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.296

Response to Leaks or Spills and Disposition of Leaking or Unfit-for-use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator shall satisfy the following requirements:

- a) Cease using; prevent flow or addition of wastes. The owner or operator shall immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.
- b) Removal of waste from tank system or secondary containment system.
 - 1) If the release was from the tank system, the owner or operator shall, within 24 hours after detection of the leak or as otherwise provided in the permit, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.
 - 2) If the material released was to a secondary containment system, all released materials must be removed within 24 hours or as otherwise provided in the permit to prevent harm to human health and the environment.
- c) Containment of visible releases to the environment. The owner or operator shall immediately conduct a visual inspection of the release and, based upon that inspection:
 - 1) Prevent further migration of the leak or spill to soils or surface water; and
 - 2) Remove, and properly dispose of, any visible contamination of the soil or surface water.
- d) Notifications, reports.
 - 1) Any release to the environment, except as provided in subsection (d)(2), must be reported to the Agency within 24 hours of its detection.
 - 2) A leak or spill of hazardous waste is exempted from the requirements of this paragraph if it is:
 - A) Less than or equal to a quantity of one (1) pound and

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- B) Immediately contained and cleaned-up.
- 3) Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Agency:
- A) Likely route of migration of the release;
 - B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);
 - C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available.
 - D) Proximity to downgradient drinking water, surface water and populated areas; and
 - E) Description of response actions taken or planned.
- e) Provision of secondary containment, repair or closure.
- 1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4), the tank system must be closed in accordance with Section 724.297.
 - 2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.
 - 3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.
 - 4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator shall provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 724.293 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the

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requirements of subsection (f) are satisfied. If a component is replaced to comply with the requirements of this subparagraph subsection, that component must satisfy the requirements of new tank systems or components in Sections 724.292 and 724.293. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with Section 724.293 prior to being returned to use.

f) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with subsection (e), and the repair has been extensive (e.g., installation of an internal liner, repair or a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner or operator has obtained a certification by an independent, qualified, registered professional engineer, in accordance with 35 Ill. Adm. Code 702.126(d), that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the Agency within seven days after returning the tank system to use.

BOARD NOTE: See Section 724.115(c) for the requirements necessary to remedy a failure. Also, 40 CFR -362 (1986)-302.6, incorporated by reference in 35 Ill. Adm. Code 720.111, may require the owner or operator to notify the National Response Center of certain releases.

(Source: Amended at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

SUBPART X: MISCELLANEOUS UNITS

Section 724.700 Applicability

The requirements in this Subpart apply to owners and operators of facilities that treat, store or dispose of hazardous waste in miscellaneous units, except as Section 724.101 provides otherwise.

(Source: Added at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.701 Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as are necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and

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requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions must include those requirements of Subparts I through O, and of 35 Ill. Adm. Code 702, 703 and 730, that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

- a)
 - 1) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:
 - 1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners or other containing structures;
 - 2) The hydrologic and geologic characteristics of the unit and the surrounding area;
 - 3) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;
 - 4) The quantity and direction of groundwater flow;
 - 5) The proximity to and withdrawal rates of current and potential groundwater users;
 - 6) The patterns of land use in the region;
 - 7) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;
 - 8) The potential for health risks caused by human exposure to waste constituents; and
 - 9) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents.
 - b)
 - 1) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface, considering:
 - 1) The volume and physical and chemical characteristics of the waste in the unit;
 - 2) The effectiveness and reliability of containing, confining and collecting systems and structures in preventing migration;

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- c)
 - 3) The hydrologic characteristics of the unit and surrounding area, including the topography of the land around the unit;
 - 4) The patterns of precipitation in the region;
 - 5) The quantity, quality and direction of groundwater flow;
 - 6) The proximity of the unit to surface waters;
 - 7) The current and potential uses of the nearby surface waters and any water quality standards in 35 Ill. Adm. Code 302 or 303;
 - 8) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;
 - 9) The patterns of land use in the region;
 - 10) The potential for health risks caused by human exposure to waste constituents; and
 - 11) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents.
- c)
 - 1) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:
 - 1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;
 - 2) The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;
 - 3) The operating characteristics of the unit;
 - 4) The atmospheric, meteorologic and topographic characteristics of the unit and the surrounding area;
 - 5) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;
 - 6) The potential for health risks caused by human exposure to waste constituents; and

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- 7) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by waste constituents.

(Source: Added at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.702 Monitoring, Analysis, Inspection, Response, Reporting and Corrective Action

Monitoring, testing, analytical data, inspections, response and reporting procedures and frequencies must ensure compliance with Sections 724.115, 724.133, 724.175, 724.176, 724.177, 724.201 and 724.701, as well as any additional requirements needed to protect human health and the environment as specified in the permit.

(Source: Added at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

Section 724.703 Post-closure Care

A miscellaneous unit that is a disposal unit must be maintained in a manner that complies with Section 724.701 during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of Section 724.701 during post-closure care. The post-closure plan under Section 724.218 must specify the procedure that will be used to satisfy this requirement.

(Source: Added at 13 Ill. Reg. 18527, effective Nov. 13, 1989)

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- 1) Heading of the Part: Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities

- 2) Code Citation: 35 Ill. Adm. Code 726

- 3) Section Numbers: 726.120 Adopted Action: Amendment

- 4) Statutory Authority: 111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027.

- 5) Effective Date of Amendment: November 13, 1989

- 6) Does this rulemaking contain an automatic repeal date? No.

- 7) Does this amendment contain incorporations by reference? No.

- 8) Date filed in Board's Principal Office: Order adopted September 13, 1989, and modified October 18, 1989.

- 9) Notice of Proposal Published in Illinois Register:

- June 30, 1989; 13 Ill. Reg. 9988

- 10) Has JCAR issued a Statement of Objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

- 11) Differences between proposal and final version:

Minor editorial differences.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 22.4(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

- 13) Will this amendment replace an emergency amendment currently in effect? No.

- 14) Are there any other amendments pending on this Part? No.

15) Summary and Purpose of amendment:

A complete description is contained in the Board's Opinion of September 13, 1989 in R89-1, which Opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1022.4(a)) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register on December 10, 1987 and during the period August 1 through December 31, 1988.

The amendment adds a reference to the treatment standards of Part 728.

16) Information and questions regarding this adopted amendment shall be directed to:

Morton F. Dorothy
Scientific/Technical Section
Illinois Pollution Control Board
104 W. University
Urbana, IL 61801
217/ 333-5575

The full text of the Adopted amendment begins on the next page:

Section
726.120
726.121
726.122
726.123

Applicability
Standards applicable to generators and transporters of materials used in a manner that constitutes disposal
Standards applicable to storers, who are not the ultimate users, of materials that are to be used in a manner that constitutes disposal
Standards applicable to users of materials that are used in a manner that constitutes disposal

SUBPART D: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

Section
726.130
726.131
726.132
726.133
726.134
726.135
726.136

Applicability
Prohibitions
Standards applicable to generators of hazardous waste fuel
Standards applicable to transporters of hazardous waste fuel
Standards applicable to marketers of hazardous waste fuel
Standards applicable to burners of hazardous waste fuel
Conditional exemption for spent materials and by-products exhibiting a characteristic of hazardous waste

SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY

Section
726.140
726.141
726.142
726.143
726.144

Applicability
Prohibitions
Standards applicable to generators of used oil burned for energy recovery
Standards applicable to marketers of used oil burned for energy recovery
Standards applicable to burners of used oil burned for energy recovery

SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

Section
726.170

Applicability and requirements

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

NOTICE OF ADOPTED AMENDMENTS

Section 726.180 Applicability and requirements

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (111. Rev. Stat. 1988 Supp., ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R85-22 at 10 111. Reg. 1162, effective January 2, 1986; amended in R86-1 at 10 111. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 111. Reg. 2900, effective January 15, 1988; amended in R89-1 at 13 111. Reg. 18606, effective Nov. 13, 1989.

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

Section 726.120 Applicability

a) The regulations of this Subpart apply to recyclable materials that are applied to or placed on the land;

1) Without mixing with any other substance(s); or

2) After mixing or combination with any other substance(s). These materials will be referred to throughout this Subpart as "materials used in a manner that constitutes disposal."

b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation under this Subpart if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in 35 111. Adm. Code 728. Subpart D (or applicable prohibition levels in 35 111. Adm. Code 728.32 or 728.139, where no treatment standards have been established) for each recyclable material (i.e. hazardous waste constituent) that they contain. However, zinc-containing fertilizer fertilizers using hazardous waste K061 that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation under this Subpart.

(Source: Amended at 13 111. Reg. 18606, effective Nov. 13, 1989)

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part:

Field Sanitation Code

2) Code Citation:

77 111. Adm. Code 910

3) Section Numbers:

910.5
910.10
910.15
910.20
910.30
910.40
910.50
910.60
910.70
910.80

Adopted Action:

Amendments
Amendments
Amendments
Amendments
Amendments
Amendments
Amendments
Amendments
Amendments

4) Statutory Authority:

Field Sanitation Act
111. Rev. Stat. 1987, ch. 111 1/2, par. 5901 et seq., as amended by P.A. 85-79, effective December 16, 1987.

5) Effective Date of Rules:

November 15, 1989

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes ___ No X

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference? Yes ___ No X

If "yes," please specify type: 6.02(a) X or 6.02(b) ___

If "6.02(b)," was a copy of the approval form issued by the Joint Committee attached to this rulemaking? Yes ___ No ___

8) Date Filed in Agency's Principal Office:

November 15, 1989

9) Date Notice(s) of Proposal was Published in Illinois Register:

June 2, 1989 - 13 Ill. Reg. 8282

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? Yes ☐ No ☒

If "yes," please complete the following:

A) Statement of Objection: _____ 111. Reg. _____

B) Agency Response: _____, 111. Reg. _____

C) Date Agency Response Submitted for Approval to the Joint Committee: _____

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

In Section 910.30, the phrase "in English and Spanish" was deleted and a new sentence was added stating "The label shall be in English and, in instances of employees not familiar with English, in the native language of the employees."

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

In response to the comment raised in the August 28, 1989 letter the Department deleted the "s" from the word "sets" in Section 910.5 of the Field Sanitation Code. The second sentence of the Section reads "The Act and this these Field Sanitation Code Rules set forth the sanitary conditions for "EVERY FARM OPERATION ON WHICH ARE EMPLOYED...WHEN TEN OR MORE AGRICULTURAL WORKERS ARE EMPLOYED FOR A PERIOD OF MORE THAN TWO HOURS DURING ANY DAY". (111-Rev-Stat-1983-eh-111-1/2-par-§994 (Section 4 of the Act)."

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? Yes ☐ No ☒

14) Are there any other Amendments Pending on this Part? Yes ☐ No ☒

If Yes:

Section Numbers Proposed Action Ill. Reg. Citation

15) Summary and Purpose of Rules:

The Field Sanitation Code establishes the technical requirements that farmers must meet in providing sanitary facilities for their workers.

The changes are proposed to reflect the new requirements of the Field Sanitation Act that became effective December 16, 1987. Specifically, the location of the required facilities and the type of handwashing facilities are revised. In addition, minor editorial changes are also proposed.

Since all the changes proposed are already required by the state law, the proposed amendments will have no effect on the public. Likewise, there will be no economic impact for implementing the proposed changes.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Mr. Robert John Kane, Division of Governmental Affairs, Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, 217/782-6187.

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 1: WATER AND SEWAGE

PART 910
FIELD SANITATION RULESCODE

SECTION	Applicability
910.5	Definitions
910.10	Incorporated Materials
910.15	Design of Toilet Facilities
910.20	Handwashing Facilities
910.30	Drinking Water Facilities
910.40	Number of Fixtures Required
910.50	Location of Toilets, Handwashing and Drinking Facilities
910.60	Sewage Disposal
910.70	Refuse Disposal
910.80	

AUTHORITY: Implementing and authorized by the Field Sanitation Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 5901 et seq.).

SOURCE: Adopted at 10 111. Reg. 5128, effective April 7, 1986; amended at 13 111. Reg. 18619 effective November 15, 1989.

NOTE: Capitalization denotes statutory language.

Section 910.5 Applicability

The rules of this Part are promulgated by the Illinois Department of Public Health to implement the "Field Sanitation Act" (Act) (111. Rev. Stat. 1983-1987, ch. 111 1/2, par. 5901 et seq.). The Act and this these Field Sanitation Code Rules set forth the sanitary conditions for EVERY FARM OPERATION ON WHICH ARE EMPLOYED . . . WHEN TEN OR MORE AGRICULTURAL WORKERS ARE EMPLOYED FOR A PERIOD OF MORE THAN TWO HOURS DURING ANY DAY". (111. Rev. Stat. 1983, ch. 111 1/2, par. 5904) (Section 4 of the Act).

(Source: Amended at 13 111. Reg. 18619 effective November 15, 1989)

Section 910.10 Definitions

In addition to the definitions in Section 2 of the Act (111. Rev. Stat. 1983, ch. 111 1/2, par. 5902), the following definitions apply to the rules of this Part:

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NOTICE OF ADOPTED AMENDMENTS

"Act" means the Field Sanitation Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 5901 et seq.).

"AGRICULTURAL WORKER" AND "WORKER" MEAN ANY INDIVIDUAL WHO IS ENGAGED IN EMPLOYMENT INVOLVING THE HARVESTING, PLANTING OR CULTIVATING OF FOOD OR NURSERY PRODUCTS BY MANUAL LABOR. THE TERM AGRICULTURAL WORKER DOES NOT INCLUDE INDIVIDUALS WHOSE PRINCIPAL OCCUPATION IS NOT AGRICULTURAL EMPLOYMENT, UNLESS SUCH INDIVIDUALS ARE REQUIRED TO BE AWAY FROM THEIR PERMANENT PLACE OF RESIDENCE OVERNIGHT. (Section 2(b) of the Act)

"Chemical Toilet" means a toilet facility in which human waste is collected in a container charged with a chemical, either dry or in solution.

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days a year.

"DEPARTMENT" REFERS TO THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH. (Section 2(d) of the Act.)

"FARM OPERATION" MEANS ACTIVITIES RELATING TO PLANTING, CULTIVATING OR HARVESTING OF FOOD OR NURSERY PRODUCTS. (Section 2(c) of the Act.)

"FARM OPERATOR" MEANS ANY PERSON, OR ANY OFFICER OR AGENT ACTING ON BEHALF OF SUCH PERSON, WHO IS THE OWNER IN POSSESSION, OR LESSEE, OF A FARMING OPERATION, OR WHO IS RESPONSIBLE FOR ITS MANAGEMENT CONDITION, OR IS THE EMPLOYER OF AGRICULTURAL WORKERS. (Section 2(a) of the Act)

"Group" means the individuals working within a singular area having a radius of 880 feet.

"Handwashing Facility" means a fixture for washing the hands, arms, face and head, including lavatories, basins and sinks.

"Non-Community Water System" means a public water system that is not a community water system, that has at least 15 service connections used by non-residents, or regularly serves 25 or more non-resident individuals daily for at least 60 days a year.

"PERSON" INCLUDES ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION, JOINT STOCK COMPANY, TRUST, OR CORPORATION. (Section 2(e) of the Act.)

"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25

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individuals daily at least 60 days per year. The term Public Water System includes any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"Toilet Facility" means a fixture for the purpose of defecation or urination, or both, including water closets, privies and biological or chemical toilets.

"Workers-Place-of-Work" means the field in which a worker performs assigned tasks--a field is a section of agricultural land between natural-or-man-made boundaries such as streams, hedges, fences and roads.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.15 Incorporated Materials

The following statutes and regulations are incorporated or referenced in this Part:

- a) Private Sewage Disposal Code
(77 Ill. Adm. Code 905)
Illinois Department of Public Health
- b) Illinois Plumbing Code
(77 Ill. Adm. Code 890)
Illinois Department of Public Health
- c) Illinois Water Well Pump Installation Code
(77 Ill. Adm. Code 925)
Illinois Department of Public Health
- d) Surface Source Water Treatment Code
(77 Ill. Adm. Code 930)
Illinois Department of Public Health
- e) Illinois Water Well Construction Code
(77 Ill. Adm. Code 920)
Illinois Department of Public Health
- f) Drinking Water Systems Code
(77 Ill. Adm. Code 900)
Illinois Department of Public Health

DEPARTMENT OF PUBLIC HEALTH
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- g) Public Water Supplies
(35 Ill. Adm. Code 601, 602, 603, 604
605, 606, and 607)
Illinois Pollution Control Board

- hg) Public Water Supplies
(35 Ill. Adm. Code 601-603-604,
605-606-607, 651, 652, 653, and 654)
Illinois Environmental Protection Agency

- ih) Environmental Protection Act
(Ill. Rev. Stat. 19831987, ch. 111 1/2, par. 1001 et seq.)

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989).

Section 910.20 Design of Toilet Facilities

- a) Toilet facilities shall be designed, constructed and maintained in accordance with the Private Sewage Disposal Code (77 Ill. Adm. Code 905), and the Illinois Plumbing Code (77 Ill. Adm. Code 890).
- b) Toilet facilities may be either permanently located or portable.
- c) Toilet facilities must be designed to provide privacy and be capable of being locked from inside the unit.
- d) Steps at least 30 inches in width shall be required if the floor elevation of the required facilities is more than 8 inches above ground level. The rise of the steps shall be uniform and shall not exceed 8 inches. A handrail shall be provided on at least one side of all sets of steps if the difference between the floor elevation of the required facilities and the ground elevation is greater than 24 inches.
- e) All toilet rooms must be vented, either by mechanical means or by screened ventilation to the outside.
- f) All facilities shall be kept clean and free from deterioration or structural damage. Floors, walls, ceilings and doors shall be of a finish such as painted wood, plastic, concrete or metal so that they can be cleaned through the use of wet cleaning techniques such as painted-wood-plastic-concrete-or-metal. Toilet seats shall be constructed of non-absorbent material such as painted-wood-or-plastic.
- g) Toilet paper must be provided at all times.

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- h) If the facilities that are provided have signs or instructions, then the signs or instructions shall be in English and Spanish. If the majority of the workers using the facilities do not speak English or Spanish, then the language spoken by the majority of the workers shall be used.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.30 Handwashing Facilities

- a) At least one of the following shall be provided for handwashing facilities:

- 1) A minimum of one (1) gallon per day per worker of potable water which discharges to a handwashing fixture and with liquid or powdered cleaning agents for each handwashing fixture or
- 2) Antiseptic hand-wipes or antiseptic sprays.

HANDWASHING FACILITIES SHALL INCLUDE A SUPPLY OF POTABLE WATER, SOAP, AND DISPOSABLE TOWELS OR EQUIVALENT DRYING MEANS such as, electric hand dryers. (Section 6 of the Act)

- b) Disposable hand-towels with covered receptacles for their disposal; clean cloth towel-racks with dispensers or electric hand-dryers shall be provided. A minimum of one (1) gallon per day per worker of potable water shall be provided for handwashing.

- c) Containers of water used for handwashing shall be labeled "Not Drinking Water". The label shall be in English and, in instances of employees not familiar with English, in the native language of the employees.

- d) The soap shall be either liquid or powder.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.40 Drinking Water Facilities

POTABLE DRINKING WATER SHALL BE PROVIDED IN COVERED CONTAINERS WITH EITHER DRINKING FOUNTAIN ATTACHMENTS OR WITH INDIVIDUAL SANITARY DRINKING CUPS PROVIDED. (Section 7 of the Act)

- a) Water suitable for drinking, at a volume of one (1) gallon per day per worker must be provided for drinking purposes and shall be obtained from one of the following sources:

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- 1) A community public water system constructed, operated and sampled in accordance with the Illinois Environmental Protection Agency's Rules for Public Water Supplies (35 Ill. Adm. Code 601, 602, 603, 604, 605, 606, 607, 651, 652, 653, and 654).

- 2) A non-community public water system constructed, operated and sampled in accordance with the Department's Rules for Drinking Water Systems Code (77 Ill. Adm. Code 900).

- 3) A water well constructed, located and operated in accordance with the Department's Illinois Water Well Construction Code (77 Ill. Adm. Code 920) and the Department's Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925).

- 4) A surface water system constructed and operated in compliance with the Department's Surface Source Water Treatment Code (77 Ill. Adm. Code 930).

- b) Where water suitable for drinking from a source specified in subsection (a) is not available, water shall be hauled as prescribed by 77 Ill. Adm. Code 900.30(o) of the Department's Rules for Drinking Water Systems Code (77 Ill. Adm. Code 900).

- c) The quality of all drinking water must meet the standards of the Rules for Drinking Water Systems Code (77 Ill. Adm. Code 900).

- d) Containers provided for the storage of drinking water shall be tightly covered and protected from external sources of contamination and capable of being cleaned.

- e) Common drinking cups are prohibited. If a drinking fountain is not provided, disposable single-service cups shall be provided with a sanitary container for cup storage and a covered receptacle for the disposal of used cups.

- f) All containers used for the storage of drinking water shall be specifically identified for that purpose and must be used exclusively for drinking water.

- g) The temperature of drinking water shall not exceed 86 degrees Fahrenheit.

- h) All receptacles containing water not suitable for drinking shall be marked to indicate that the water cannot be used for handwashing or drinking purposes.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

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Section 910.50 Number of Fixtures Required

a) At least one toilet must be provided for every 35 workers or fraction thereof. If workers of both sexes are present, then at least one of the required toilets shall be in a separate room.

b) If water is used for handwashing facilities, at least one handwashing facility shall be provided for every 35 workers or fraction thereof.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.60 Location of Toilets, Handwashing and Drinking Facilities

TOILET, HANDWASHING AND DRINKING WATER FACILITIES SHALL BE LOCATED WITHIN 1/4 OF A MILE FROM ANY WORKER. (Section 9 of the Act)

a) For a group of less than 10 workers, toilet facilities with adjacent handwashing facilities and drinking facilities shall be provided within 2,640 feet of the workers' place of work if transportation is not provided for the workers at all times; if transportation is provided at all times, the facilities must be located within a distance that can be traveled within the posted speed limits from the workers' place of work to the facilities within five (5) minutes.

b) For a group of 10 or more workers, toilet facilities and adjacent handwashing facilities and drinking facilities shall be located within 880 feet of the workers' place of work.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.70 Sewage Disposal

All sewage including human fecal material and urine shall discharge into a sewage disposal system approved by the Illinois Environmental Protection Agency or into a private sewage disposal system constructed and maintained in accordance with the Private Sewage Disposal Code (77 Ill. Adm. Code 905). Private sewage disposal systems shall be maintained as specified in the Private Sewage Disposal Code.

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

Section 910.80 Refuse Disposal

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NOTICE OF ADOPTED AMENDMENTS

All refuse shall be kept in watertight, fly-proof, metal or durable plastic containers. All refuse and garbage shall be removed from work areas at least weekly and disposed at a solid waste disposal site.

AGENCY NOTE: Solid waste disposal sites are approved by the Illinois Environmental Protection Agency according to the Environmental Protection Act (Ill. Rev. Stat. 1987-1988, ch. 111 1/2, par. 1001 et seq.).

(Source: Amended at 13 Ill. Reg. 18610, effective November 15, 1989)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part:

Retail Food Store Sanitation Code

2) Code Citation:

77 Ill. Adm. Code 760

3) Section Numbers:760.30
Appendix AAdopted Action:New Section
New Section4) Statutory Authority:

Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 501 et. seq.); "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 67 et. seq.); Section 21 of the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 521); and Section 11.1 of "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 77.1).

5) Effective Date of Rules:

December 1, 1989

6) Does this Rulemaking Contain an Automatic Repeal Date? No.7) Does this Rulemaking Contain Any Incorporations by Reference? No.8) Date Filed in Agency's Principal Office:

November 7, 1989

9) Date Notice(s) of Proposal was Published in Illinois Register:

May 5, 1989 - 13 Ill. Reg. 6964

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments and suggestions of the Administrative Code Division:

The Notice of Proposed Amendments omitted the term "amendments" in the last statement at the end of required questions which specify whether the material is "rules," "amendments" or "repealer." The Notice of Adopted amendments specifies the word "amendments."

In the table of contents, the blank line between the Part number and the Part heading has been deleted.

In Section 760.580, the heading in the table of contents which read "Cleaned in Place" has been changed to "Cleaned In Place" in order to match the heading in the text.

Two original copies of the form in Appendix A have been submitted at for filing and publication.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

The following has been added to the main source note: "amended at 7 Ill. Reg. 8532, effective July 8, 1983;"

In Section 760.30(b), the word "regulatory" replaces the word "health" in the first sentence.

In Section 760.30(d), the following has been added:

1) The approval process would require any regulatory authority who seeks to use an alternate scoring system to submit a complete description of the alternate to the Director for consideration. The application/approval process consists of the following:

A) A descriptive statement provided by the applicant shall indicate that the alternate scoring system evaluates all items on the Retail Food Sanitation Inspection Report (Form IL 482-0200) and all sections of the Food Service Sanitation and Retail Food Store Sanitation Codes.

B) A printed example of the proposed alternate scoring system shall be provided.

C) An examination of the applicant's form must show that all other aspects of the form besides the alternate scoring system are still substantially similar to the Department's form (Form IL 482-0200).

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D) Providing the application fulfills subsections (A) through (C) above, notification will be provided by the Director in writing that the alternate scoring system is approved and may be incorporated into the regulatory authority's Retail Food Sanitary Inspection form.

2) The Illinois Department of Public Health method for determining the number of debit points is patterned after the United States Food and Drug Administration model. A perfect score is 100 points. Each violation is categorized ("item" number column on the inspection form) and has a corresponding value which is deducted from the 100 point score ("weight" column on the inspection form).

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No.

14) Are there any other Amendments Pending on this Part? No.

15) Summary and Purpose of Rules:

The Department has required that the written inspection report, informing the operator of a retail food store of the inspector's findings, be fairly uniform across the State and that the operator have a clear understanding of the Department's authority to inspect the facility.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Mr. Robert John Kane,
Division of Governmental Affairs,
Department of Public Health,
525 West Jefferson, Second Floor,
Springfield, Illinois 62761
217/782-6187.

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 760
RETAIL FOOD STORE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Purpose
Incorporated Materials
Definitions
Inspections and Inspection Report

SUBPART B: FOOD

SECTION
760.10
760.15
760.20
760.30

General - Food Supplies
Special Requirements for Food Supplies
General - Food Protection

Emergency Occurrences
General - Food Storage

Refrigerated/Frozen Storage
Hot Storage

Damaged Food Containers
General - Food Preparation

Preparing Raw Fruits and Raw Vegetables
Cooking Potentially Hazardous Foods

Bakery Product Fillings
Reheating

Food Product Thermometers
Thawing Potentially Hazardous Foods

Displaying Potentially Hazardous Foods
Displaying Frozen Foods

Food Display
Dispensing Utensils

Food Sample Demonstrations and Food Promotions
General - Food Transportation by the Retail Food Store

SUBPART C: PERSONNEL

SECTION
760.400
760.410

General - Employee Health
General - Personal Cleanliness

DEPARTMENT OF PUBLIC HEALTH
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SUBPART D: EQUIPMENT AND UTENSILS

SECTION
760.420 General - Clothing
760.430 General - Employee Practices
760.500 General - Materials
760.510 Solder
760.520 Wood
760.530 Plastics and Rubber Materials
760.540 Cutting Surfaces
760.550 Single-Service Articles
760.560 General - Design and Fabrication
760.570 Accessibility
760.580 Cleaned ~~in~~ In Place (CIP)
760.590 Food Product Thermometers
760.600 Non-Food-Contact Surfaces
760.610 Ventilation Hoods
760.620 Maintenance of Equipment and Utensils
760.630 General - Equipment Installation and Location
760.640 Table-Mounted Equipment
760.650 Floor-Mounted Equipment
760.660 Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZATION,
AND STORAGE OF EQUIPMENT AND UTENSILS

SECTION
760.700 Cleaning Frequency
760.710 Wiping Cloths
760.720 Manual Cleaning and Sanitizing
760.730 Mechanical Cleaning and Sanitizing
760.740 Drying
760.750 Retail Food Stores Without Equipment and Utensil Cleaning Facilities
760.760 Equipment and Utensil Handling
760.770 Equipment and Utensil Storage
760.780 Single-Service Articles Handling and Storage
760.790 Prohibited Storage Areas

SUBPART F: SANITARY FACILITIES AND CONTROLS

SECTION
760.900 General - Water Supply
760.910 Water Delivery
760.920 Water Under Pressure
760.930 Steam
760.940 General - Sewage
760.950 General - Plumbing

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

760.960 Nonpotable Water System
760.970 Backflow
760.980 Grease Traps
760.990 Garbage Grinders
760.1000 Drains
760.1010 Toilet Installation
760.1020 Toilet Design
760.1030 Toilet Rooms
760.1040 Toilet Facility Maintenance
760.1050 Handwashing Facility Installation
760.1060 Handwashing Facility Faucets
760.1070 Handwashing Supplies
760.1080 Handwashing Facility Maintenance
760.1090 Garbage and Refuse Containers
760.1100 Garbage and Refuse Container Storage
760.1110 Garbage and Refuse Disposal
760.1120 General - Insect and Rodent Control
760.1130 Openings to be Protected Against Entry of Rodents and Insects

SUBPART G: CONSTRUCTION AND MAINTENANCE
OF PHYSICAL FACILITIES

SECTION
760.1200 Floor Construction
760.1210 Floor Carpeting
760.1220 Prohibited Floor Covering
760.1230 Mats and Duckboards
760.1240 Utility Line Installation
760.1250 Wall and Ceiling Maintenance
760.1260 Wall and Ceiling Construction
760.1270 Exposed Construction of Walls and Ceilings
760.1280 Utility Line Installation in or on Walls and Ceilings
760.1290 Attachments to Walls and/or Ceilings
760.1300 Wall and Ceiling Covering Material Installation
760.1310 General - Cleaning Physical Facilities
760.1320 Service Sinks for Cleaning
760.1330 General - Lighting
760.1340 Protective Light Shielding
760.1350 General - Ventilation
760.1360 Dressing Rooms and Areas
760.1370 Locker Areas
760.1380 Poisonous or Toxic Materials Permitted
760.1390 Labelling of Poisonous or Toxic Materials
760.1400 Storage of Poisonous or Toxic Materials
760.1410 Use of Poisonous or Toxic Materials
760.1420 Storage and Display of Poisonous or Toxic Materials for Retail Sale
760.1430 First-Aid Supplies and Personal Medications
760.1440 General - Premises

760.1450 Living Areas
760.1460 Laundry Facilities
760.1470 Linens and Work Clothes Storage
760.1480 Cleaning Equipment Storage
760.1490 Animals

SUBPART H: NEW FACILITIES AND EXISTING EQUIPMENT AND FACILITIES

SECTION
760.1600 New Facilities
760.1610 Existing Equipment and Facilities

SUBPART I: TEMPORARY RETAIL FOOD STORES

SECTION
760.1700 General - Temporary Retail Food Stores
760.1710 Restricted Operations
760.1720 Wet Storage
760.1730 Waste Disposal
760.1740 Handwashing
760.1750 Floors
760.1760 Ceilings

Appendix A Retail Food Sanitary Inspection Report

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 501 et. seq.) and "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 67 et. seq.) and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 521) and Section 11.1 of "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 77.1).

SOURCE: Adopted September 16, 1968; old rules repealed and new rules adopted and codified at 7 Ill. Reg. 1382, effective January 25, 1983; amended at 7 Ill. Reg. 8532, effective July 8, 1983; amended at 11 Ill. Reg. 2440, effective February 1, 1987; amended at 11 Ill. Reg. 18743, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14391, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17935, effective December 1, 1988; amended at 13 Ill. Reg. 1830, effective January 30, 1989; amended at 13 Ill. Reg. 18621, effective December 1, 1989.

Section 760.30 Inspections and Inspection Report

a) All retail food stores are subject to inspection at all times.

b) The operator of the retail food store shall receive a written report from the regulatory authority at the end of any inspection. The inspection findings shall be reported on the "Retail Food Sanitary Inspection Report", Form IL 482-0200 (See Appendix A) or on a report form substantially similar which, includes at a minimum, the same information and addresses all forty-five (45) items.

c) All forty-five (45) items on the inspection report shall be addressed and rated in accordance with the Illinois Retail Food Store Sanitation Code, 77 Ill. Adm. Code 760.

d) An alternate scoring system, as approved by the Director and which evaluates all aspects of the Illinois Retail Food Store Sanitation Code, may be substituted for the current scoring system of 100 points minus debit points. This may include systems, for example, where an additional point value is debited for lack of the required certified food service manager, if applicable, where critical violations carry a larger than usual point value because of inherent risk, where separate scoring systems are instituted for critical and non-critical violations, or other effective methods which assist the inspector in making an evaluation of the sanitation level in the food establishment.

1) The approval process would require any regulatory authority who seeks to use an alternate scoring system to submit a complete description of the alternate to the Director for consideration. The application/approval process consists of the following:

A) A descriptive statement provided by the applicant shall indicate that the alternate scoring system evaluates all items on the Retail Food Sanitation Inspection Report (Form IL 482-0200) and all sections of the Food Service Sanitation and Retail Food Store Sanitation Codes.

B) A printed example of the proposed alternate scoring system shall be provided.

C) An examination of the applicant's form must show that all other aspects of the form besides the alternate scoring system are still substantially similar to the Department's form (Form IL 482-0200).

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(Source: Added at 13 Ill. Reg. 18621, effective December 1, 1989)

D) Providing the application fulfills subsections (A) through (C) above, notification will be provided by the Director in writing that the alternate scoring system is approved and may be incorporated into the regulatory authority's Retail Food Sanitary Inspection form.

2) The Illinois Department of Public Health method for determining the number of debit points is patterned after the United States Food and Drug Administration model. A perfect score is 100 points. Each violation is categorized ("item" number column on the inspection form) and has a corresponding value which is deducted from the 100 point score ("weight" column on the inspection form).

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NOTICE OF ADOPTED AMENDMENTS
Appendix A Retail Food Sanitary Inspection Report

- ☐ Food Service Establishment
☐ Retail Food Store
☐ Temporary
☐ Mobile

Illinois Department of Public Health
Division of Food, Drugs and Devices
525 West Jefferson Street, Springfield, IL 62761
Phone: (217) 785-2439
RETAIL FOOD SANITARY INSPECTION REPORT

Establishment
Number _____
Telephone _____
☐ Original Inspection
☐ Follow-up Inspection
☐ Other _____

Name of Establishment _____ City _____ State/Agent _____ Zip Code _____

Based on an inspection this day, the items marked below identify violations of the Illinois Food, Drug and Cosmetic Act and/or the Sanitary Inspection Law and Rules promulgated under these acts. Failure to correct these violations within the time specified may result in prosecution under the Enforcement Provisions of these acts. * - Critical Items Requiring Immediate Correction.

Item #	Per	Inspection	Item #	Per	Inspection
FOOD					
1	1	Food handlers: no fingernails	18	1	Pre-packed, sealed, sealed
2	1	Open container: properly labeled	19	2	Meat, meat, dairy, poultry, refrigerated
3	1	Food protection	20	4	Sanitation: floor, walls, equipment, conservation
4	1	Food protection	21	1	Washing: hands, face, hair, neck
5	1	Food protection	22	2	Food: no visible signs of spoilage and no foreign matter
6	1	Food protection	23	1	Food: no visible signs of spoilage and no foreign matter
7	1	Food protection	24	1	Food: no visible signs of spoilage and no foreign matter
8	1	Food protection	25	1	Food: no visible signs of spoilage and no foreign matter
9	1	Food protection	26	1	Food: no visible signs of spoilage and no foreign matter
10	1	Food protection	27	1	Food: no visible signs of spoilage and no foreign matter
11	1	Food protection	28	1	Food: no visible signs of spoilage and no foreign matter
12	1	Food protection	29	1	Food: no visible signs of spoilage and no foreign matter
13	1	Food protection	30	1	Food: no visible signs of spoilage and no foreign matter
14	1	Food protection	31	1	Food: no visible signs of spoilage and no foreign matter
15	1	Food protection	32	1	Food: no visible signs of spoilage and no foreign matter
16	1	Food protection	33	1	Food: no visible signs of spoilage and no foreign matter
17	1	Food protection	34	1	Food: no visible signs of spoilage and no foreign matter
18	1	Food protection	35	1	Food: no visible signs of spoilage and no foreign matter
19	1	Food protection	36	1	Food: no visible signs of spoilage and no foreign matter
20	1	Food protection	37	1	Food: no visible signs of spoilage and no foreign matter
21	1	Food protection	38	1	Food: no visible signs of spoilage and no foreign matter
22	1	Food protection	39	1	Food: no visible signs of spoilage and no foreign matter
23	1	Food protection	40	1	Food: no visible signs of spoilage and no foreign matter
24	1	Food protection	41	1	Food: no visible signs of spoilage and no foreign matter
25	1	Food protection	42	1	Food: no visible signs of spoilage and no foreign matter
26	1	Food protection	43	1	Food: no visible signs of spoilage and no foreign matter
27	1	Food protection	44	1	Food: no visible signs of spoilage and no foreign matter
28	1	Food protection	45	1	Food: no visible signs of spoilage and no foreign matter
29	1	Food protection	46	1	Food: no visible signs of spoilage and no foreign matter
30	1	Food protection	47	1	Food: no visible signs of spoilage and no foreign matter
31	1	Food protection	48	1	Food: no visible signs of spoilage and no foreign matter
32	1	Food protection	49	1	Food: no visible signs of spoilage and no foreign matter
33	1	Food protection	50	1	Food: no visible signs of spoilage and no foreign matter
34	1	Food protection	51	1	Food: no visible signs of spoilage and no foreign matter
35	1	Food protection	52	1	Food: no visible signs of spoilage and no foreign matter
36	1	Food protection	53	1	Food: no visible signs of spoilage and no foreign matter
37	1	Food protection	54	1	Food: no visible signs of spoilage and no foreign matter
38	1	Food protection	55	1	Food: no visible signs of spoilage and no foreign matter
39	1	Food protection	56	1	Food: no visible signs of spoilage and no foreign matter
40	1	Food protection	57	1	Food: no visible signs of spoilage and no foreign matter
41	1	Food protection	58	1	Food: no visible signs of spoilage and no foreign matter
42	1	Food protection	59	1	Food: no visible signs of spoilage and no foreign matter
43	1	Food protection	60	1	Food: no visible signs of spoilage and no foreign matter
44	1	Food protection	61	1	Food: no visible signs of spoilage and no foreign matter
45	1	Food protection	62	1	Food: no visible signs of spoilage and no foreign matter
46	1	Food protection	63	1	Food: no visible signs of spoilage and no foreign matter
47	1	Food protection	64	1	Food: no visible signs of spoilage and no foreign matter
48	1	Food protection	65	1	Food: no visible signs of spoilage and no foreign matter
49	1	Food protection	66	1	Food: no visible signs of spoilage and no foreign matter
50	1	Food protection	67	1	Food: no visible signs of spoilage and no foreign matter
51	1	Food protection	68	1	Food: no visible signs of spoilage and no foreign matter
52	1	Food protection	69	1	Food: no visible signs of spoilage and no foreign matter
53	1	Food protection	70	1	Food: no visible signs of spoilage and no foreign matter
54	1	Food protection	71	1	Food: no visible signs of spoilage and no foreign matter
55	1	Food protection	72	1	Food: no visible signs of spoilage and no foreign matter
56	1	Food protection	73	1	Food: no visible signs of spoilage and no foreign matter
57	1	Food protection	74	1	Food: no visible signs of spoilage and no foreign matter
58	1	Food protection	75	1	Food: no visible signs of spoilage and no foreign matter
59	1	Food protection	76	1	Food: no visible signs of spoilage and no foreign matter
60	1	Food protection	77	1	Food: no visible signs of spoilage and no foreign matter
61	1	Food protection	78	1	Food: no visible signs of spoilage and no foreign matter
62	1	Food protection	79	1	Food: no visible signs of spoilage and no foreign matter
63	1	Food protection	80	1	Food: no visible signs of spoilage and no foreign matter
64	1	Food protection	81	1	Food: no visible signs of spoilage and no foreign matter
65	1	Food protection	82	1	Food: no visible signs of spoilage and no foreign matter
66	1	Food protection	83	1	Food: no visible signs of spoilage and no foreign matter
67	1	Food protection	84	1	Food: no visible signs of spoilage and no foreign matter
68	1	Food protection	85	1	Food: no visible signs of spoilage and no foreign matter
69	1	Food protection	86	1	Food: no visible signs of spoilage and no foreign matter
70	1	Food protection	87	1	Food: no visible signs of spoilage and no foreign matter
71	1	Food protection	88	1	Food: no visible signs of spoilage and no foreign matter
72	1	Food protection	89	1	Food: no visible signs of spoilage and no foreign matter
73	1	Food protection	90	1	Food: no visible signs of spoilage and no foreign matter
74	1	Food protection	91	1	Food: no visible signs of spoilage and no foreign matter
75	1	Food protection	92	1	Food: no visible signs of spoilage and no foreign matter
76	1	Food protection	93	1	Food: no visible signs of spoilage and no foreign matter
77	1	Food protection	94	1	Food: no visible signs of spoilage and no foreign matter
78	1	Food protection	95	1	Food: no visible signs of spoilage and no foreign matter
79	1	Food protection	96	1	Food: no visible signs of spoilage and no foreign matter
80	1	Food protection	97	1	Food: no visible signs of spoilage and no foreign matter
81	1	Food protection	98	1	Food: no visible signs of spoilage and no foreign matter
82	1	Food protection	99	1	Food: no visible signs of spoilage and no foreign matter
83	1	Food protection	100	1	Food: no visible signs of spoilage and no foreign matter

Temperatures: Temp/FPH Chemical _____ Hot Foods _____ Cold Foods _____
Manager Certification No: _____

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTSAppendix A Retail Food Sanitary Inspection Report (continued)

ITEM	Remarks and Recommendations For Corrections	CORRECTED BY

Received by/Title:

(Signature of Owner or Representative)

Sanitation Score

(100 Minus Deductions) Date

Time In

Time Out

By

(Sanitarian)

IL 482-0200

Page ____ of ____

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS
NOTICE OF EMERGENCY AMENDMENTS1) The Heading of the Part: Metropolitan Civic Center Support Program2) Code Citation: 14 Ill. Adm. Code 5003) Section Numbers: 500.70
Emergency Action: Amendment4) Statutory Authority: Implementing the Metropolitan Civic Center Support Act (Ill. Rev. Stat. 1987, ch. 85, pars. 1391 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.42).5) Effective Date of Rules: November 8, 19896) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.7) Date filed in Agency's Principal Office: November 8, 1989.8) Reason for Emergency: These regulations were developed prior to experience with the application cycle provided in the Metropolitan Civic Center Support Act (Ill. Rev. Stat. 1987, ch. 85, pars. 1391 et seq.). Due to a lack of funding in prior fiscal years, this is the first year applications from civic center authorities will be reviewed under these regulations.

Following the department's substantive review of the applications this year as outlined in the regulations, it became apparent that the applicant authorities would not be able to respond to the department's questions and request for additional documentation within the 30 day timeframe provided in the rules. Therefore, the department believes it is in the public interest to extend the time allowed for applicant response to 120 days. This will give each applicant additional time to gather information and data which will strengthen the applications. This is extremely important given the competitive nature of the program.

9) A Complete Description of the Subjects and Issues Involved: The only change made in the rules is to extend the time for civic center authorities to respond to the department's request for additional information or data on an application as a result of the department's substantive review. This time period is extended to 120 days (now 30).10) Are there any proposed amendments to this Part pending? No.11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1987, ch. 85, par. 2203).

(Source: Added at 13 Ill. Reg. 18621, effective 12/1/89)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF EMERGENCY AMENDMENTS

- 12) Information and questions regarding these amendments shall be directed to:

Mr. Dennis R. Whetstone, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th Floor
Springfield, Illinois 62701
(217) 782-6136

The full text of the emergency amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF EMERGENCY AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER 1: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 500

METROPOLITAN CIVIC CENTER SUPPORT PROGRAM

Section	Authority
500.10	Definitions
500.20	Computation of Time
500.30	Objectives
500.40	Eligibility
500.50	Form of Application
500.60	Pre-Application Consultation
500.61	Application Procedures
500.70	
EMERGENCY	
500.80	Department Review Procedures
500.90	Agreements
500.100	Project Changes
500.110	Provision for Amendment to This Part
500.120	Severability

AUTHORITY: Implementing the Metropolitan Civic Center Support Act (Ill. Rev. Stat. 1987, ch. 85, pars. 1391 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.42).

SOURCE: Emergency rules filed and effective December 2, 1976; codified at 6 Ill. Reg. 15009; amended at 11 Ill. Reg. 10212, effective May 19, 1987; amended at 12 Ill. Reg. 22159, effective December 8, 1988; emergency amendment at 13 Ill. Reg. 18632, effective November 8, 1989, for a maximum of 150 days.

Section 500.70 Application Procedures

EMERGENCY

- a) An Application will be considered received when delivered to the office of the Director at 620 East Adams Street, Springfield, Illinois 62701 during the period for submission of applications in a program year.
- b) The Director, or the Director's designee, shall issue a receipt to the Applicant acknowledging delivery of the Application including the date the Application was received.
- c) Applications shall be made available for public inspection during regular business hours at the principal office of the Authority and the Department's office at 620 East Adams Street,

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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Springfield, Illinois.

d) Initial Review

1) The Director, or the Director's designee, shall notify the Applicant by August 15, or the first business day thereafter that, after the initial review, the Application and attached exhibits are complete on their face. This notice is not in any way an acknowledgment by the Director as to the adequacy or acceptability of the substance of the Application.

2) In the event the Director, or the Director's designee, determines that the Application and its attached exhibits are not complete on their face and in accordance with the format prescribed by the Department and this Part, the Director, or the Director's designee, shall notify the Applicant by August 15, or the first business day thereafter of such fact along with a list of such deficiencies.

3) Should the Director, or the Director's designee, send a notice of deficiency as required in subsection (d)(2), the Applicant shall have fourteen (14) days from the date of such notice to cure such deficiency. The Application shall be considered null and void and returned to the Applicant if

A) the Applicant fails to supply additional material to cure the deficiency; or

B) the Applicant submits additional material to the Director which in the opinion of the Director does not cure the deficiency.

4) If the deficiency as noted in the list pursuant to subsection (d)(2) is cured, the Director shall notify the Applicant that the Application and attached exhibits are complete on their face in the form and manner provided for in subsection (d)(1).

e) Substantive Review

1) Within sixty (60) days from the date of notification issued pursuant to subsection (d)(1) or (4), the Director shall have conducted the initial review of the application and notify the Applicant of any substantive deficiencies contained in the Application and/or questions needed to clarify information provided in the Application.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF EMERGENCY AMENDMENTS

Substantive deficiencies means the absence of documentation, information or reports required in the application or the failure to complete such materials.

2) The Applicant shall have ~~thirty (30)~~ one hundred twenty (120) days from the date of receipt of notice of substantive deficiencies issued pursuant to the provision of subsection (e)(1) to cure such substantive deficiencies through the submission of additional material and/or respond to Department questions.

3) Following the period for submission of additional material to cure the substantive deficiencies and/or answer Department questions, the Director shall notify the Applicant that a public hearing will be held concerning the application.

The Department shall hold one or more public hearings on the applications of Authorities which have been notified under subsection (e)(3). Applications may be grouped for hearings by geographic area. Notice of such hearings shall be placed in a newspaper of general circulation in the area of each applicant not more than ten (10) days but at least five (5) days prior to hearing.

g) The applications will be reviewed and competitively ranked. Ranking will be based upon the following criteria:

1) the application is in the prescribed format accompanied by an economic feasibility report, an economic impact report, master building plan and design, documented evidence that the Authority was created pursuant to law, a financial plan, and the required local share of total project costs;

2) the application proposes a facility which accommodates a documented community need. Such documentation should include evidence that the proposed facility does not duplicate existing facilities;

3) the application shows evidence of community support;

4) the application proposes a facility which will provide primary and secondary economic benefits in the area of the Authority as projected in the economic impact report, including such things as job creation, private investments and other benefits; and

5) the application proposes a facility the operational expenses of which are met by the Authority or through other

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NOTICE OF EMERGENCY AMENDMENTS

means available to the Authority.

- h) Applications will be funded in order of highest rank. However, if the amount available for certification in a given year is insufficient to fund a higher ranked application, the Director shall select the next highest ranked project for which funds are sufficient.

- i) Following the public hearing and the application review, the Director shall deny all or a portion of an application if, in the judgment of the Director, the substantive deficiencies contained in the list provided pursuant to subsection (e)(1) have not been cured, the applicant has failed to show that the project's economic feasibility report, master building plan and design, financial plan, or economic impact report satisfies the requirements of Section 500.20.

- j) The Director shall prepare and distribute to all Applicants a list of applications selected and the amount approved, and a list of applications denied and the amount denied. Applicants whose requests have been denied shall be provided with the reason for denial in writing.

- k) The Director shall certify those applications selected if funding is available in the Civic Center Bond Fund to fund the selected projects or, if funds are not available for the selected projects, to fund the next highest ranked project for which funds are available or after he has sought and received a written certification from the Illinois Bureau of the Budget that the revenues for the last completed fiscal year paid into the MEAOB Fund equal or exceed 175% of the annual debt service required with respect to Civic Center Bonds for previously certified applications and the application(s) under consideration; and, if the Director determines that the sale of Civic Center Bonds for the application(s) under consideration would not, when added to the amount of principal issued and outstanding, exceed the sum of one-hundred million dollars (\$100,000,000); and, if the Director determines that the Department will issue Civic Center Bonds based on, but not limited to, such factors as current interest rates, revenue flow in the MEAOB fund.

- l) If at any time during the application process, the Department determines that no funding will be available for any projects during a program year, the Department shall return all applications to the Applicants without completing the review process for that program year. Applications returned under this subsection shall be considered denied for that program year.

- m) Applications not certified in one year may be updated, e.g., to

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS
NOTICE OF EMERGENCY AMENDMENTS

reflect changes in market conditions, community need and support, financial position and resubmitted in another program year.

- n) 1) An Applicant may request that the Director reconsider any adverse decision made by the Director pursuant to subsection (i) above.
- 2) The Applicant must file a petition with the Department for reconsideration within ten (10) days from the date of the notice to the Applicant of such adverse decision.
- 3) The petition required by subsection (n)(2) shall contain at a minimum:
- A) substantive evidence, except that evidence that was not included in the Application, Amended Application, response to Department request for clarification, or Public Hearing shall not be considered;
- B) arguments of fact as to why the Director's decision should be modified; and
- C) arguments of law as to why the Director's decision should be modified.
- 4) The Director shall render a decision based on the petition with all deliberate speed.
- 5) A petition for review shall stay the effect of subsections (h),(i),(j), and (k) as they pertain to the selection and funding of applications for that program year.
- 6) An adverse decision as to a petition submitted pursuant to this Section shall be considered a final administrative decision.

(Source: Emergency amendment at 13 Ill. Reg. 18632, effective November 8, 1989, for a maximum of 150 days)

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED RULES

NOTICE PURSUANT TO
ILL. REV. STAT. 1988 SUPP., CH. 111 1/2, PAR. 1007.2(b)

Section 13(c) of the Environmental Protection Act (Act) requires the Board to adopt regulations which are "identical in substance" USEPA Underground Injection Control (UIC) rules adopted pursuant to the Safe Drinking Water Act (SDWA). These rules are contained in 35 Ill. Adm. Code: Subtitle G, Chapter 1, subchapters a, b and d, generally 35 Ill. Adm. Code 700, 702, 704, 730 and proposed 738. The Board has proposed amendments on October 5, 1989. The proposed rules will appear in the Illinois Register in the near future.

On August 31, 1989, in R89-2, the Pollution Control Board entered the following Order pursuant to Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1007.2(b):

Section 13(c) of the Act requires the Board to adopt regulations which are "identical in substance" with USEPA underground injection control rules adopted pursuant to the Safe Drinking Water Act (SDWA). The term "identical in substance" has recently been defined in Section 7.2 of the Act. Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of the federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons. It appears that the regulations in this Docket may be late. The Board is therefore entering this Order to extend the time.

Under Section 7.2 of the Act, Board action on this update is required within one year after adoption of the first USEPA rule in the batch. This was July 26, 1988 for this batch. Board action was therefore required by July 26, 1989.

The USEPA rules during this update period include major revisions to the UIC rules which are closely linked to the RCRA rules currently pending in R89-1. This linkage, together with the size of the update, have delayed the preparation of the proposal.

The Board anticipates proposing rules for public comment during September, 1989. These rules should be adopted in November, 1989.

The Board also notes that the number of federally-driven programs involving large blocks of rules has suddenly expanded from two (RCRA and UIC) to at least five (by

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED RULES

addition of Pretreatment, UST, and SDWA). The Board has recently received added funding for expansion of staff to manage these large rulemakings; the Board believes that it will be able to return to schedule as its expanded staff gains experience.

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POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED RULES

NOTICE PURSUANT TO
ILL. REV. STAT. 1988 SUPP., CH. 111 1/2, PAR. 1007.2(b)

Section 17.5 of the Environmental Protection Act (Act) requires the Board to adopt regulations which are "identical in substance" USEPA public water supply rules adopted pursuant to the Safe Drinking Water Act (SDWA). These rules are contained in 35 Ill. Adm. Code: Subtitle f, Chapter 1. They will be proposed as 35 Ill. Adm. Code 611 The Board proposed to adopt rules on October 5, 1989. The proposal will appear in the Illinois Register in the near future.

On August 31, 1989, in R88-26, the Pollution Control Board entered the following Order pursuant to Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1007.2(b):

Section 17.5(a) of the Environmental Protection Act (Act) requires the Board to adopt regulations which are "identical in substance" with USEPA public water supply rules adopted pursuant to the Safe Drinking Water Act (SDWA). The term "identical in substance" has recently been defined in Section 7.2 of the Act. Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of the federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons. It appears that the regulations in this Docket will arguably be late. The Board is therefore entering this Order to extend the time.

The USEPA SDWA rules are in 40 CFR 141 et seq. These have been the subject of numerous recent amendments, including two major amendments on June 29, 1989 (54 Fed. Reg. 27526 and 27562). It is not immediately obvious at what time the USEPA rules have or will become, as a matter of federal law, ripe for adoption as State rules. However, the Board intends, in September, 1989, to propose rules for public comment, and, in December, 1989, to adopt rules corresponding with USEPA rules through June 30, 1989.

Many of the USEPA rules involved date back to December 24, 1975, long before the mandates of Sections 7.2 and 7.5 of the Act. It is impossible to literally comply with the time requirements with respect to initial adoption of an already ongoing federal program. Also, the initial adoption of a program often involves a far greater effort.

For example, the SDWA rulemaking is currently delayed by the problem of placing the incorporations by reference into a format which meets the requirements of Section 6.02

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of the Illinois APA. The Board has identified approximately 45 references which need to be completed or corrected to meet APA requirements. The Board anticipates that the rules should be adopted prior to December 31, 1989.

The Board also notes that the number of federally-driven programs involving large blocks of rules has suddenly expanded from two (RCRA and UIC) to at least five (by addition of Pretreatment, UST, and SDWA). The Board has recently received added funding for expansion of staff to manage these large rulemakings; the Board believes that it will be able to return to schedule as its expanded staff gains experience.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED RULES

NOTICE PURSUANT TO
ILL. REV. STAT. 1988 SUPP., CH. 111 1/2, PAR. 1007.2(b)

Section 22.4(a) of the Environmental Protection Act (Act) requires the Board to adopt regulations which are "identical in substance" to the Resource Conservation and Recovery Act (RCRA). These rules are contained in 35 Ill. Adm. Code: Subtitle G, Chapter 1, subchapters a through c, generally 35 Ill. Adm. Code 700 et seq. Proposed rules appeared on May 25, 1989, at 13 Ill. Reg. 9661. The Board has adopted final amendments on September 13, 1989, as modified on October 18, 1989. The adopted rules will appear in the Illinois Register in the near future.

On August 31, 1989, in R89-1, the Pollution Control Board entered the following Order pursuant to Ill. Rev. Stat. 1988 Supp., ch. 111 1/2, par. 1007.2(b):

Section 22.4(a) of the Act requires the Board to adopt regulations which are "identical in substance" with USEPA hazardous waste rules adopted pursuant to the Resource Conservation and Recovery Act (RCRA). The term "identical in substance" has recently been defined in Section 7.2 of the Act. Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of the federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons. It appears that the regulations in this Docket may be late. The Board is therefore entering this Order to extend the time.

Under Section 7.2 of the Act, Board action on this update is required within one year after adoption of the first USEPA rule in the batch. This was August 17, 1988 for this batch. Board action was therefore required by August 17, 1989. Since the public comment period ended on August 14, there was little time to consider these comments, in particular a large public comment received August 7, which will at least delay final action due to the time required to consider the issues. The Board anticipates that these rules will be adopted in September 1989.

The Board also notes that the number of federally-driven programs involving large blocks of rules has suddenly expanded from two (RCRA and UIC) to at least five (by addition of Pretreatment, UST, and SDWA). The Board has recently received added funding for expansion of staff to manage these large rulemakings; the Board believes that it will be able to return to schedule as its expanded staff gains experience.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY
SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 6, 1989 through November 9, 1989 and have been scheduled for review by the Committee at its December 14, 1989 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its December meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
12/21/89	Department of Rehabilitation Services, Client Financial Participation (89 Ill. Adm. Code 562)	9/15/89 13 Ill. Reg. 14313	December 14, 1989
12/22/89	Department of Public Aid, Aid to Families with Dependent Children (89 Ill. Adm. Code 112)	9/22/89 13 Ill. Reg. 14741	December 14, 1989
12/22/89	Department of Public Aid, General Assistance (89 Ill. Adm. Code 114)	9/22/89 13 Ill. Reg. 14764	December 14, 1989
12/22/89	Department of Public Aid, Medical Assistance Programs (89 Ill. Adm. Code 120)	9/22/89 13 Ill. Reg. 14778	December 14, 1989
12/22/89	Department of Public Aid, Refugee/Entrant/Repatriate Program (89 Ill. Adm. Code 115)	9/22/89 13 Ill. Reg. 14790	December 14, 1989
12/22/89	Department of Insurance, Advertisements of Medicare Supplement Insurance (50 Ill. Adm. Code 2010)	12/23/88 12 Ill. Reg. 21008	December 14, 1989
12/26/89	Board of Higher Education, Engineering Grant Program (23 Ill. Adm. Code 1025)	9/22/89 13 Ill. Reg. 14516	December 14, 1989
12/26/89	Board of Higher Education, Health Services Education Grants Act (23 Ill. Adm. Code 1020)	9/22/89 13 Ill. Reg. 14521	December 14, 1989

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<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>Scheduled for Consideration by JC&R</u>
12/22/89	Board of Higher Education, Illinois Financial Assistance Act for Nonpublic Institutions of Higher Learning (23 Ill. Adm. Code 1000)	9/22/89 13 Ill. Reg. 14531	December 14, 1989
12/26/89	Illinois Commerce Commission, Uniform System of Accounts for Gas Utilities (80 Ill. Adm. Code 505)	8/25/89 13 Ill. Reg. 13361	December 14, 1989
12/26/89	Environmental Protection Agency, Joint Rules of the Environmental Protection Agency and the Department of Public Health: Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 183)	5/19/89 13 Ill. Reg. 7522	December 14, 1989

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PROCLAMATION
89-531
AIDS DAY

Whereas, the worldwide spread of HIV infection and AIDS necessitates a worldwide effort of increased preventive education to stop the epidemic; and

Whereas, the World Health Organization has established December 1 of each year as World AIDS Day to expand and strengthen the worldwide effort to stop AIDS; and

Whereas, the theme for World AIDS Day 1989, "Our Lives, Our World: Let's Take Care of Each Other," and the continuing theme, "Join the Worldwide Effort," reflect the importance of personal and collective participation in addressing the challenge of conquering AIDS;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim December 1, 1989, as AIDS DAY in Illinois. I urge all Illinoisans to take part in activities and observances designed to increase awareness, prevention, and understanding of HIV infection and AIDS as a worldwide challenge.

Issued by the Governor November 6, 1989.

Filed with the Secretary of State November 13, 1989.

89-532
DAUGHTERS OF PENELOPE DAY

Whereas, the Daughters of Penelope were founded November 11, 1929, as a patriotic, educational, and philanthropic organization; and

Whereas, the Daughters of Penelope are striving to eliminate illiteracy in the U.S. and have adopted the Barbara Bush Foundation for Family Literacy as their national project; and

Whereas, the Daughters of Penelope will celebrate their 60th anniversary November 16, 1989;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 16, 1989, as DAUGHTERS OF PENELOPE DAY in Illinois in recognition of their 60th year of contributions to our state and nation.

Issued by the Governor November 6, 1989.

Filed with the Secretary of State November 13, 1989.

89-533
DIABETES EDUCATION WEEK

Whereas, diabetes is a problem of grave concern and consequence in our nation, with serious complications and effects which can be lessened through diabetes education; and

Whereas, more than 11 million people in America are afflicted with diabetes and 500,000 new cases are diagnosed yearly; and

Whereas, diabetes is a leading cause of death and a major

cause of disability in the United States; and

Whereas, diabetes education can help persons with diabetes gain better health and peace of mind, and live more independent, active, and fulfilling lives;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 13-18, 1989, as DIABETES EDUCATION WEEK in Illinois, and urge Illinoisans to observe that week with appropriate ceremonies and activities.

Issued by the Governor November 6, 1989.

Filed with the Secretary of State November 13, 1989.

89-534

HARRIET TUBMAN DAY

Whereas, Harriet Tubman was one of the most courageous women in history and escaped from slavery to freedom on the Underground Railroad during the summer of 1849; and

Whereas, her freedom became a mission to free others and she returned to the South 19 times, risking her own life and liberty. She once said, "There was one or two things I had a right to -- liberty or death..."; and

Whereas, Harriet Tubman served bravely and courageously as a soldier, spy, scout, nurse, and cook during the Civil War, and was known as a patriot of freedom, justice, and equality; and

Whereas, after the war she continued to fight for the homeless, the elderly, education, and human rights until her death on March 10, 1913;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim March 10, 1990, as HARRIET TUBMAN DAY in Illinois to honor Harriet Tubman and her undying faith and courage to make the world a better place to live.

Issued by the Governor November 6, 1989.

Filed with the Secretary of State November 13, 1989.

89-535

HENRY B. BETTS, M.D. DAY

Whereas, Henry B. Betts, M.D. has demonstrated an extraordinary commitment to improving the lives of people with disabilities during his 25 years with the Rehabilitation Institute of Chicago; and

Whereas, Dr. Betts' tenure as Medical Director and Chief Executive Officer of the Rehabilitation Institute of Chicago has been marked by accomplishments which have vaulted the medical facility into world prominence; and

Whereas, this day marks the announcement of the creation of the Henry B. Betts, M.D. Award, an annual award to honor a living individual whose efforts have made significant improvements to the quality of life for people with disabilities; and

Whereas, Illinoisans have benefited, directly or indirectly,

from the outstanding efforts of Dr. Betts and the Rehabilitation Institute of Chicago;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 14, 1989, as HENRY B. BETTS, M.D. DAY in Illinois, in honor of the accomplishments and contributions of Dr. Betts.

Issued by the Governor November 9, 1989.

Filed with the Secretary of State November 13, 1989.